

'DEPRIVED OF THEIR LIBERTY':

ENEMY PRISONERS AND THE CULTURE OF WAR IN REVOLUTIONARY AMERICA, 1775-1783

by
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Abstract

Deprived of Their Liberty explores Americans' changing conceptions of legitimate wartime violence by analyzing how the revolutionaries treated their captured enemies, and by asking what their treatment can tell us about the American Revolution more broadly. I suggest that at the commencement of conflict, the revolutionary leadership sought to contain the violence of war according to the prevailing customs of warfare in Europe. These rules of war—or to phrase it differently, the cultural norms of war—emphasized restricting the violence of war to the battlefield and treating enemy prisoners humanely. Only six years later, however, captured British soldiers and seamen, as well as civilian loyalists, languished on board noisome prison ships in Massachusetts and New York, in the lead mines of Connecticut, the jails of Pennsylvania, and the camps of Virginia and Maryland, where they were deprived of their liberty and often their lives by the very government purporting to defend those inalienable rights. My dissertation explores this curious, and heretofore largely unrecognized, transformation in the revolutionaries' conduct of war by looking at the experience of captivity in American hands.

Throughout the dissertation, I suggest three principal factors to account for the escalation of violence during the war. From the onset of hostilities, the revolutionaries encountered an obstinate enemy that denied them the status of legitimate combatants, labeling them as rebels and traitors. They faced the divided loyalties of their own population, which threatened civil war. And they were ideologically constrained from forming a centralized government capable of effectively limiting the war's violence.

These factors shaped the very nature of the war they fought and forced the revolutionary leadership to reconsider their basic assumptions about warfare. In doing so, revolutionary leaders unwittingly radicalized the struggle, transforming a war for colonial self-determination into a truly revolutionary conflict.

Advisor: Philip D. Morgan

Readers: Michael P. Johnson, Angus Burgin, Alex Roland, and Randall Packard

TO MY LOVING PARENTS, RANDY AND CONNIE JONES

Acknowledgements

I always read the acknowledgements. They are an unrivalled window onto the scholarly process. By giving thanks, an author explicitly diagrams the intellectual network and support-system that shaped the forthcoming pages. Much can be gleaned from a close reading of this seemingly perfunctory piece of prose. Perhaps more importantly, they are very often a delight to read. With the trials of writing in the past, an author's acknowledgements abound with joy and gratitude. It is my hope that my words of appreciation not only inform the reader of how this project came to be, but also convey in some small measure the pleasure and honor it has been to call the following individuals and institutions my friends, collaborators, and supporters. Words cannot repay debts, but I have crafted these in the wish that they could.

From the moment I met Philip D. Morgan, as a quivering prospective graduate student over seven years ago, I knew that I had come to the right place. In that brief meeting, Phil—as I would later hesitantly come to call him—casually demonstrated his encyclopedic knowledge of the historiography of the American Revolutionary period and his enthusiastic support of my intellectual interests. I was in awe, and I still am. Phil is an unattainable model of scholar, teacher, and friend. Indefatigable and meticulous in his scholarship, Phil inspires me to be a better historian, intellectual, and citizen of the scholarly community. As an advisor, he was always there when I needed him, but equally important, he gave me the freedom to research and to write for long stretches of time unhindered by meddlesome inquiries. A consummate empiricist, Phil never shied away from demanding copious evidence to support my claims, but he has always allowed

me to be the historian I aspire to be. If I have at times sacrificed brevity in the interest of telling a good story, no blame can be laid at his door. He has endured chapter after chapter with a knowing grin that each could have been much longer. Though Phil indulged my preference for narrative history, he never ceased to demand rigorous analysis and persuasive argument. The dissertation that follows is much improved because I heeded his advice, though not nearly enough for his taste I am sure. When Phil Morgan accepted me as his student, I heard often from friends and teachers that I was extremely fortunate to work with such a luminary. They hoped that some of his scholarly fame might rub off on me. In seeing him only as a renowned academic, they did him a disservice. In Phil, the scholar, educator, and mentor are seamlessly blended. His dedication to his students, passion for teaching, and generosity of spirit know no bounds. I will never be able to thank him enough.

Before coming to Johns Hopkins, I made one of the best decisions of my life when I knocked on Alex Roland's door at Duke University. Upon hearing a beckoning "come in," I meandered through a labyrinth of bookcases into what I would later come to know as "Fortress Roland." Tucked away in the back was a man who would go on to play an enormous role in my professional and personal development. On that warm August day in Durham twelve years ago, Alex agreed to shepherd me through the undergraduate degree at Duke in the hopes that I might go on to study history professionally. Little did he know what a drain on his time and resources I would become. For the next four years, I pestered him with requests to read my overly florid prose, to write letters of recommendation, and to tell me what I needed to do in order to have his job one day. He never complained. Rather than scoff at my passion for the past

or dismiss it as boyish enthusiasm, he accepted me for whom I was, while impressing on me the need to develop a critical eye and to question the accepted narrative. He introduced me to the world of historiography, the dynamics of change over time, the importance of contingency, and the perils of hagiography. Alex treated my senior honors thesis as if it were a doctoral dissertation. An uncompromising editor with an unsurpassed appreciation for the complexities of the English language, he diligently pored over every sentence, always urging me to be more succinct. Alex taught me that history was an art before it was a science and that style matters. His belief that jargon is a poor substitute for clarity became the foundation of my approach to historical writing. Given the immense role he played in my undergraduate education, it may surprise readers to learn that his greatest influence on my life came when I was a graduate student. Not only did he read and comment on each draft of my dissertation, as well as agree to serve on my committee, he also introduced to me to the love of my life, Kathryn Maxson. As we were both his former students and both hopelessly caught up in esoteric pursuits, Alex thought we would be perfect for one another. He could not have been more prophetic. For this and everything else he has done for me, I am eternally grateful.

During my second year of graduate school as I prepared for my comprehensive examinations, I had the privilege and pleasure of working with two extraordinary historians: Michael Johnson and David Bell. In his seminar on the nineteenth-century American south, Mike encouraged me to look beyond a book's flaws to see its virtues. In seminar, Mike's questions strike the perfect balance between trenchant critique and enthusiastic support. His is a model I have long aspired to emulate. As I progressed through the program, Mike not only read my entire dissertation, but also generously

shared drafts of his own work pertaining to the Continental navy and the siege of Charleston. His ideas helped shape my thinking on those subjects. When I decided to come to Johns Hopkins, I was thrilled by the possibility of studying with David Bell. His interest in the culture of war in eighteenth-century Europe overlapped significantly with my own. I had long known of his reputation as an elegant writer, and I soon learned he is an equally gifted pedagogue. David showed me how the ideas of Michel Foucault, Clifford Geertz, and Norbert Elias, among others, could be applied to the study of war. Taking his advice to heart, I set out to study the culture of war in Revolutionary America and have never looked back. Although I was initially saddened to hear of his departure for Princeton, the move soon proved fortuitous for me. When I informed him that I would be moving to Princeton to accompany Kathryn as she began her graduate work in history, David was delighted. Soon after our arrival, he thoroughly read my work and treated me to a series of delicious lunches during which we discussed my project's broader implications. Many of the finer points of my arguments developed from those conversations. I trust he will be pleased to see the imprint of his influence throughout the dissertation.

The cornerstone of graduate education in early American history at Johns Hopkins is the Early American Seminar (sometimes known as the Atlantic Seminar). A forum for graduate students to present works in progress, the seminar was an omnipresent, often terrifying, and always enlightening component of my experience in graduate school. When I arrived, senior students told me that there was no better preparation for the conference circuit than presenting at the Early American Seminar. They were right. Questions come fast, furious, and at times ferocious, but all are

animated by the principle of "tough love." All but one of the chapters that follow was eviscerated by the members of the seminar. The end product is much improved because of their efforts. The intellectual energy of the seminar does not dissipate after the scheduled two hours elapses. More often than not, the members adjourn to a choice watering hole to continue the discussion in less formal environs. I received some of the best advice about my work and the profession in general during these post-seminar gatherings at the Charles Village Pub and Rocket to Venus. I am thankful for the critique, support, and friendship of every member of the seminar during my tenure at Hopkins, but especially Molly Warsh, Justin Roberts, James Roberts, Andrew Devereux, Jess Roney, Jonathan Gienapp, Claire Gherini, Steph Gamble, Lisa Bob, Nick Radburn, and Katherine Smoak. Writing is often a lonely process, but the above mentioned individuals and others helped pull me away from my work and put the entire process in perspective. I am fortunate to call them friends first and colleagues second.

I entered graduate school at a unique moment for which I am immensely grateful. Having recently returned from a stint at Princeton, Phil accepted four students to matriculate at Hopkins in the fall of 2007: Jonathan Gienapp, Claire Gherini, Steph Gamble (née Crumbaugh), as well as myself. Much to his horror I am sure, we all showed up. We attended seminar together, studied together, ate together, socialized together, and matured as scholars together. Having a close cadre of graduate students studying early American history was a tremendous boon to my education. All helped me to refine my thinking and to challenge my assumptions on a regular basis.

Four of my graduate school friends merit extended mention. Jonathan Gienapp was my constant companion and partner in crime throughout my time at Hopkins.

Studying the political culture of the Revolutionary era, he was an ally from the beginning. Jonathan's natural charm, razor-sharp intellect, and infectious sense of humor have delighted and challenged me ever since. When times were good, Jonathan was always ready to celebrate, and when they were not, I could count on him to talk me off the ledge. Ours is a friendship that I will always cherish. A year ahead of me in the program, Craig Hollander immediately accepted me as one of his own. Craig's loyalty and generosity to his friends are unmatched, and his hospitality is the stuff of legend. He shares my passion for telling a good story and few are better at so doing than Craig. I was very lucky to spend even more time with Craig this past year in Princeton. Living in New York and teaching at Princeton, Craig would often stay at our apartment when he had evening obligations on campus. Invariably, he would take me and Kathryn to dinner whenever he was in town. On more than one occasion, Craig and a bottle of his finest Scotch helped me cope with the job-market or an impending chapter deadline. Being so close to New York allowed me to celebrate the birth of Craig's beautiful daughter Lydia. Craig and his wife Jeni welcomed me into their home numerous times to share their food and spirits and enjoy the company of little Lydia. I cannot thank the Hollander family enough for their friendship and generosity.

Back in Baltimore, I was blessed by the friendship of Claire Gherini and Meredith Raucher. Both were early friends that have remained dear to my heart. Late night debriefing sessions with Claire opened my eyes to the richness and diversity of the history of medicine and to the complex and nuanced character development in HBO's *Game of Thrones*. Although often away on fellowships, Claire was always reachable to chat about life, discuss sources, or debate historiography. Our summer trips to the

Library of Congress made research so much more enjoyable. Meredith Raucher and I hit it off right away. An immensely talented historian of late-Medieval art, Meredith is as kind as she is brilliant. Through many an evening sipping wine and pretending to watch *Law and Order*, Meredith talked me through some of the most difficult periods in the program. I only hope that I returned the favor. During my research trips, I always looked forward to returning to Baltimore to hear about Meredith's triumphs and to catch up on the latest news from around campus. I anticipate many more such sessions in the future.

I am indebted to several other members of the Johns Hopkins community. The Senior Academic Program Coordinator in the Department of History, Megan Zeller, ensured I progressed through graduate school satisfactorily and smoothed out the inevitable bumps along the way. Without her help, I am certain I would have failed out of the program numerous times due to bureaucratic snafus. I would also like to thank Angus Burgin and Randall Packard for agreeing to evaluate a dissertation that is chronologically and thematically far afield from their own areas of study. I look forward to incorporating their thoughts and suggestions into my work. The students who attended my course, "Riots, Revolts, and Revolutions: Violence in Early American History" deserve a hardy round of applause for their patience, insight, and achievement in the fall of 2012. Their feedback in seminar helped me refine and expand my thinking in significant ways. I also want to thank John Marshall and John Matsui for providing excellent advice and encouragement about the academic job-market over the years.

In addition to my colleagues and friends at Hopkins, I have been blessed by the support and assistance of numerous other very generous scholars. I first met Ira Gruber at a reception at the Library of the Society of the Cincinnati, and he has been a steadfast

supporter of mine ever since. He has kindly read and offered insightful suggestions on much of my work. Similarly, Holly Mayer has deeply engaged with this dissertation, reading and commenting on my drafts as though she were my primary advisor. Her comments have sharpened my prose and refined my arguments. I could not be more grateful to her. I met Wayne Lee when I was applying to graduate school. A fellow "Dukie," Wayne was also a student of Alex Roland. Engaging with his work and enjoying his company over the years has been an honor and delight. Daniel Krebs, a fellow student of prisoners of war during the Revolutionary period, has been a fount of support, source material, and good times since I met him in 2012. I am also grateful for the advice and encouragement of Margaret Sankey and Paul Springer. As an undergraduate, I worked closely with Dirk Bonker who enthusiastically encouraged me to first apply to and then attend Johns Hopkins. Without his advice, this dissertation would not have come to fruition. Also of Duke, Bob Cook-Deegan was immensely supportive of my work when I was a visiting scholar there in 2012. He proved a most excellent travel companion during a research trip to London in the summer of 2013, and I am much indebted to him for sharing his knowledge of and passion for the popular eighteenth-century libations Port and Madeira. Recently, Alan Taylor and Andrew Jackson O'Shaughnessy have provided me with source suggestions and thoughts for how to revise the manuscript into a publishable monograph. Though he does not know it, Peter Onuf deserves much credit for the line of argument I pursue in this work. Listening to his 2011 Patrick Henry Lecture, entitled "Imperialism and Nationalism in the Early American Republic," challenged many of my preconceived assumptions and started me down the path of rethinking my argument. Finally, I am thankful for the friendship, mentorship,

and kindness of Dr. Douglas Marshall. "Uncle Doug" shared my interests and supported all my academic endeavors over the years. I am deeply saddened by his recent passing. I will miss him always.

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I could not have written this dissertation without a staggering amount of financial assistance. When I entered graduate school, I was fortunate to be awarded a George and Sylvia Kagan Graduate Fellowship from the Department of History at Johns Hopkins, generously supplementing my departmental stipend. As I began to research this project, I was privileged to receive a Scholar's Grant from the Society of the Cincinnati, a Residential Research Fellowship from the David Library of the American Revolution, a Mellon Research Fellowship from the Virginia Historical Society, a Jacob M. Price Visiting Research Fellowship from the Clements Library, an Andrew W. Mellon Foundation Fellowship from the Historical Society of Pennsylvania, and a Society of the Cincinnati Fellowship from the Massachusetts Historical Society. Numerous archivists and librarians assisted me during my fellowships at these prestigious institutions, but I would particularly like to single out Ellen McCallister Clark, William P. Tatum, Daniel Rolph, Kathy Ludwig, Barbara DeWolfe, and Conrad Wright. As I entered the writing stage of the dissertation, I was incredibly fortunate to receive a Harry Frank Guggenheim Foundation Dissertation Fellowship, which allowed me to relocate to Princeton while I drafted large segments of the project. Brian F. Neumann was of immense help in securing me a very generous U.S. Army Center of Military History Fellowship, which allowed me to finish research and writing from the comfort of home. I am also thankful for funding from the Department of History at Hopkins, which was made possible by the generous contributions of the Dr. Alexander Butler Foundation.

These acknowledgements were composed in a beautifully-appointed office at the Fred W. Smith National Library for the Study of George Washington at Mount Vernon. I had the great honor to receive the inaugural Amanda and Greg Gregory Family

Fellowship at the library. The library is an inspirational location in which to think and write about the founding era. Few experiences can better rouse one's passion for the period than watching the sunrise over the Potomac from the estate's piazza on a beautiful spring morning. While in residence at the library, I have benefited from many convivial conversations with its founding director, Dr. Douglas Bradburn. In less than a year, Doug has established the library as the scholarly Mecca for the study of the American Revolution. Living at the DeVos house alongside such prominent scholars as James Kirby Martin, Edward Larson, and Lydia Brandt has been a privilege and a gift. Each has enriched this study in numerous ways. They all have my appreciation.

My greatest debts are owed to my closest friends and family, without whom I could never have endured this process. My college roommate, Jake Levy, has been a wellspring of hilarity and enthusiasm for as long as I have known him. His gentle chides over the years to finish faster have finally paid off. Perhaps now he will allow me to stop calling him "Dr. Jakey." Meeting Kathryn Maxson four years ago changed my life immeasurably. Her brilliance, beauty, benevolence, and nerdiness continue to confound me. How can one person be so exquisite? Each day I am floored to find myself falling more in love with her than the day prior. She has been around from the inception of this project to its completion, cheering my triumphs and soothing my sorrows. She is so much more than I could ever have asked for in a partner. I can't wait to spend the rest of my life with her.

I would not be writing these words had it not been for the unquestioning love and support of my parents, Randy and Connie Jones. They recognized early on that my passion for the past was not a passing fad but was instead my "perfect pitch." Growing

up, I dragged them, not the other way around, to forts, battlefields, and museums all over the country. If they would rather have been doing something else, they never let on. Though they might not think of themselves this way, my parents are extraordinary teachers. They raised me and my truly exceptional brothers, Chance and Charles, to value hard work, education, and personal integrity, but reminded us not to take ourselves too seriously. All they ever wanted was for us to be the best versions of ourselves and to remember that kindness costs nothing. I could not have asked for better or more loving parents. It is as a proud son that I dedicate this dissertation to them with love and admiration.

T. Cole Jones

Mount Vernon, VA

June 4th, 2014

Note on Style

I have made a concerted effort to accurately reproduce the often inconsistent eighteenth-century spelling, capitalization, and punctuation used in the sources I have consulted.

When necessary for comprehension, I have added punctuation or clarifying words, which are clearly denoted in brackets. The full citations of frequently utilized sources have been shortened after their initial occurrence. Abbreviations for these sources can be found on the first page of the Bibliography.

Throughout the dissertation I have referred to those inhabitants of Great Britain's North American colonies who embraced the struggle against the crown as revolutionaries, or simply Americans, and those who supported reconciliation with Britain as loyalists. I have eschewed the laudatory or derogatory terms "Patriot," "Rebel," and "Tory." Additionally, I have referred to those subjects of the Holy Roman Empire who served as military auxiliaries of the British crown as Germans or Britain's Germanic allies. Only when I am sure the soldiers in question came from Hesse-Kassel or Hesse-Hanau have I called them Hessians, despite the widespread American practice of referring to all German auxiliaries as Hessians.

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Introduction: Words about War

This is a story about war, the rules we make to control it, and what happens when we abandon those rules. It is a story of an infant nation that enshrined the rules of war in its founding document—its declaration of independence—only to repudiate them in thought, word, and deed. It is a story of a cycle of violence, retaliation, and retribution so gruesome that it had to be forgotten. At its center, this is a story about how the experience of war radicalized an American rebellion into the American Revolution.

.....

In early December 1775, the elected representatives of the thirteen British colonies in America resolved to remind the British government that even in war there are rules. Already aware of Thomas Jefferson's persuasive pen, Congress looked to the thirty-two-year-old Virginia delegate to draft a "declaration" protesting the British abuse of American prisoners of war and enunciating Congress's stance that the violence of war should be restricted to the field of battle. As Jefferson phrased it, Congress was determined that this war would "not be decided by reeking [*sic*] vengeance on a few helpless captives, but by atchieving [*sic*] success in the fields of war." Jefferson was the ideal choice for the declaration's draftsman. Few in Congress could boast either his depth of knowledge or breadth of reading on the prevailing European conceptions of how war should be conducted. Like most of his fellow Congressmen, Jefferson believed that, though clearly misled by a tyrannical ministry, the British people remained "brave and

civilized." To Jefferson's horror and indignation, however, in late 1775 it appeared as if the British had abandoned the contemporary European rules of war— or in other words, the cultural norms of war— which emphasized restraining war's violence and treating enemy prisoners humanely. After capture, enemy prisoners were not to be objects of violence but compassion. In his stern reproof, Jefferson reminded his British readers that "it is the happiness of modern times that the evils of necessary war are softened by refinement of manners and sentiment, and that an enemy is an object of vengeance, in arms and in the feild [*sic*] only." By contrast, the British seemed determined "to revive antient [*sic*] barbarism, and again disgrace our nature with the practice of human sacrifice." This was no mere rhetoric. As Jefferson crafted his declaration, American prisoners starved in pestilent prisons under the constant threat of execution for treason while British prisoners in American custody enjoyed "every comfort for which captivity and misfortune called." In deference to General George Washington's negotiations with his British counterpart, Jefferson's declaration was never sent, but Congress echoed his sentiments when it resolved on January 2nd to indict the British for "the execrable barbarity, with which this unhappy war has been conducted." Despite deep provocation, Congress could take pride that the American cause had not been stained by such inhumanity.¹

Three years later as governor of Virginia, Jefferson penned a very different declaration on the conduct of war. In the intervening period, British and Native

¹ Draft of a Declaration on the British Treatment of Ethan Allen by Thomas Jefferson. January 2nd, 1776. *The Papers of Thomas Jefferson Digital Edition*, Barbara B. Oberg and J. Jefferson Looney, eds. (Charlottesville: University of Virginia Press, Rotunda, 2008). <<http://rotunda.upress.virginia.edu/founders/TSJN-01-01-01-0006>>, hereafter cited as *PTJ*; *Journals of the Continental Congress, 1774-1789*, ed. Worthington C. Ford et al. (Washington, D.C., 1904-37), 34 vols., 4:21, hereafter cited as *JCC*.

American raiding parties had plagued Virginia's frontiers, bands of armed loyalists had plundered the countryside, thousands of enslaved Africans had fled to British lines, many taking up arms against their former masters, hundreds of Virginia's soldiers and sailors had perished in British jails and prison ships, and the British navy had burned sections of Norfolk and Portsmouth. To compound Jefferson's concerns, Congress had saddled Virginia with the responsibility of housing and feeding thousands of enemy prisoners who were anxious for an opportunity to rejoin their comrades. With a British army ensconced in Georgia and poised to march northward, it looked as if they might soon get their chance. In late 1779, Jefferson's Virginia was surrounded by enemies from both within and without: enemies that evinced no intention of observing "the usage of polished Nations; gentle and humane." Instead, as he apprised John Jay, they were guilty of committing "ravages and enormities, unjustifiable by the usage of civilized nations." This was the context in which Jefferson expressed a very different vision of the conduct of war from that he had espoused in the waning days of 1775. As he wrote a Virginian officer in enemy custody, the British had transformed the conflict into "a contest of cruelty and destruction," and henceforth Americans would "contend with them in that line, and measure out misery to those in our power." This was not an idle threat of proportional retaliation for British misdeeds as sanctioned by the European laws of war. This was the deliberate articulation of a radical alteration in the revolutionaries' conduct of the war: war that would be carried out with "a severity as terrible as universal."²

Deprived of Their Liberty explores this widespread, and heretofore largely unrecognized, transformation in the revolutionaries' conduct of war by analyzing how

² Jefferson to William Phillips. July 22nd, 1779. Williamsburg, VA; Jefferson to John Jay. June 19th, 1779. Williamsburg, VA; Jefferson to George Mathews. October 8th, 1779. In Council. *PTJ*.

revolutionary Americans treated their captured enemies over the course of the conflict. It asks what their treatment can tell us about the American Revolution more broadly. I begin by arguing that colonial Americans were unprepared for the challenges of waging a European-style conflict in 1775. Lacking both experience and a professional military establishment, they relied on a small cadre of European-trained officers to formulate and execute military policy. Despite a deep-seated commitment to the normative practice of war in Europe, this fledgling nation soon found the care and management of prisoners of war to be a daunting challenge. What was to become of these men? How were they to be treated? Who would pay to house and feed them? In answering questions such as these, I contend that the manner in which the revolutionary authorities dealt with enemy prisoners over the course of the war reflects the radicalization of popular American assumptions about the limits of acceptable violence in warfare. The violence of America's war for independence is both proof of the radicalism of the American Revolution and a driving factor behind that radicalism. The Revolution did not just radicalize American politics, ideology, and society, though the consequences for all three were profound, it also radicalized Americans' understanding of war: how it should be prosecuted and who should have a say in ordering its conduct. When the struggle began, the revolutionary leadership worked tirelessly to control the war's violence according to the prevailing European norms, but the experience of the conflict so outraged ordinary Americans that their cries for radical change could not be ignored. Faced with unremitting popular pressure for retaliatory violence, revolutionary leaders such as Jefferson, slowly and in fits and starts, began to reconsider their humane position on the conduct of war. The result was a torrent of violence unimaginable at the commencement of hostilities.

Three principal factors account for this transformation. From the onset of hostilities, the revolutionaries encountered an obstinate enemy that officially denied them the status of legitimate combatants, labeling them as rebels and traitors. They faced the divided loyalties of their own population, which threatened civil war. And they were politically constrained from forming a centralized government capable of effectively limiting the war's violence. These three imperatives shaped the very nature of the war they fought and forced revolutionary leaders to reconsider their basic assumptions about warfare. In doing so, they unwittingly radicalized the struggle, transforming a war for colonial self-determination into a truly revolutionary conflict.

Although revolutionary Americans believed that their grievances justified taking up arms, British political and military officials considered them criminals in need of chastisement. When suppressing rebellions, the British army had a long history of denying the conventional European protections of war to insurgents in locales as diverse as Scotland, Ireland, Jamaica, and Acadia. While the cultural resemblance between the British and their American colonists was so strong that the violence of Britain's response never matched that of the preceding rebellions, the British army's belief that the American war was an unlawful rebellion strongly influenced its military practice. American prisoners in British hands were the principal victims of Britain's effort to end the rebellion by force. Historians estimate that somewhere between 8,500 and 18,000 American soldiers, sailors, and privateers expired in British custody. Despite the discrepancy in total numbers, most agree that roughly one half of all Americans who fell into British hands during the war perished in captivity: a statistic unprecedented in eighteenth-century European warfare. The prisoners did not suffer in silence. The

revolutionary leadership wasted no time in capitalizing on the prisoners' ordeals for propagandistic purposes. As accounts of British abuses proliferated in the press—usually exaggerated but rarely without some truth—ordinary Americans, thirsting for vengeance, began to demand retaliation. To infuriated revolutionaries, British prisoners looked like the ideal objects of revenge.³

Responding to the siren call of vengeance, the revolutionary authorities retaliated first and most violently upon those Americans who took up arms in opposition to the "glorious cause." The British ministry's decision in 1776 to arm loyalists to assist in the suppression of the rebellion inaugurated a civil war in America in which abuse would compound abuse for the next six years. Once the quest for independence replaced any hope of reconciliation, the revolutionaries ceased to tolerate disloyalty. No longer seen as merely deluded or disaffected by the revolutionaries, loyalists represented an existential threat to the new nation by openly espousing an alternate vision for America's future. By taking up arms, loyalists undermined American claims to political unity and sovereign status in the eyes of the world. Confronted by multiple threats of loyalist uprisings, the revolutionaries began to conceive of their loyalist neighbors as rebels and traitors. Re-imagined in this way, the enemies of the Revolution no longer merited the humane treatment due to prisoners of war that the revolutionaries had so assiduously maintained at the conflict's outset. Occupying a liminal space between benign contempt and begrudging toleration in the minds of most revolutionaries before independence, after the declaration, loyalists had no place at all. As rebels against their country, they could

³ Edwin Burrows, *Forgotten Patriots: The Untold Story of American Prisoners during the Revolutionary War* (New York: Basic Books, 2008), ix, 64, 197-201, 315-317, n. 7-12 and Howard H. Peckham, ed., *The Toll of Independence: Engagements & Battle Casualties of the American Revolution* (Chicago: University of Chicago Press, 1974), 132.

be imprisoned at whim, held with little prospect of release, tried as traitors, and even summarily executed. This alteration in how the revolutionaries conceived of their enemies had drastic consequences for the treatment of loyalist prisoners in American hands.

Despite the popular outcry against British abuses and the exigencies of civil war, revolutionary leaders might have succeeded in sustaining their humane vision of warfare had they been willing to create a military bureaucracy capable of enforcing it. Steeped in republican ideology and its suspicion of standing armies, the revolutionary leadership was loath to relinquish control of prisoner affairs to its military branch. George Washington eventually succeeded in establishing a commissariat of prisoners for the Continental army, roughly equivalent to that of the British army, but Congress never granted the commissary the power or the purse necessary to adequately provide for enemy prisoners. Without the support of tax revenue, Congress was reduced to the necessity of outsourcing prisoner management to individual states. In this decentralized system, local revolutionary authorities often interpreted congressional orders as mere suggestions. Accountable to its citizens before Congress, state governments jealously guarded the enemy prisoners in their hands for the purpose of exchanging them for their own constituents in British custody, contrary to Washington's desire for exchanges to be based on length of captivity alone. More seriously, once the prisoners were out of Washington's hands, he could do little to guarantee their safety or humane treatment. Local officials, deeply mired in their own civil wars and constantly pressed by constituents to exact retribution for British atrocities, often escalated retaliation beyond proportionality. Prevented by Congress from ever entering into a general treaty for the

exchange of prisoners with the British, Washington could do nothing but lament the prisoners' plight and the escalation of the war's violence.

By analyzing how these factors influenced the revolutionaries' practice of war, *Deprived of Their Liberty* questions the standard narrative of the Revolutionary War and its role in the broader history of the American Revolution. Summarizing the popular American conception of the Revolution, Gordon Wood has claimed that America's revolution "does not appear to resemble the revolutions of other nations in which people were killed, property was destroyed, and everything was turned upside down." The revolutionaries were "too much the gentlemen" who "made speeches, not bombs." In his account of the social transformations wrought by the Revolution, the war's violence has no place. Those historians who have critiqued Wood for his apparent emphasis on ideas over actions, patricians over plebs, and have sought instead to recover the agency of those disenfranchised by the Revolution, are equally responsible for our sanitized image of the revolutionary era. While Marcus Rediker, Gary Nash, T.H. Breen, and others have observed that a very different revolution took place "out of doors," away from the halls of Congress or genteel drawing rooms, the battlefield and its aftermath appear rarely in their narratives. Furthermore, neither interpretation has accounted for why common tradesmen and day laborers joined their voices to those of elite merchants and landed gentlemen in the call for, first, retaliation and then violent retribution for British mistreatment of American prisoners.⁴

⁴ Gordon Wood, *The Radicalism of the American Revolution* (New York: Vintage Books, 1991), 3. In a similar vein, the flood of recent scholarship on the "founding fathers" has done more to glorify the war than illuminate its horrors. See for instance, Joseph Ellis, *Founding Brothers: The Revolutionary Generation* (New York: Alfred A. Knopf, 2000), John Ferling, *Setting the World Ablaze: Washington, Adams, Jefferson, and the American Revolution* (Oxford: Oxford University Press, 2000), and Stephen Brumwell, *George Washington: Gentleman Warrior* (New York: Quercus, 2012). Equally surprising, scholars working in the tradition of the "new social history" have all but ignored the violence of the

Although military historians have long taken the experience of the war seriously, they have traditionally portrayed the war in two categories: first as a limited conflict in the eighteenth-century European tradition between the regular forces of Great Britain and the nascent United States, and second as a "total" conflict between these two powers and their various Native American adversaries and civilian militias. Within this bifurcated conception of the conflict, the war of the Revolution looks much like the colonial wars of the eighteenth-century. The violence of the regular war has been downplayed while that of the militia war has been emphasized. Unsurprisingly, John Shy's claim that the war was "militarily conservative" has endured, largely unchallenged.⁵

Revolutionary War except when that violence was directed against traditionally-ignored historical actors. For instance, Peter Linebaugh and Marcus Rediker, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston: Beacon, 2000), Gary Nash, *The Unknown American Revolution: The Unruly Birth of Democracy and the Struggle to Create America* (New York: Viking, 2005), and T. H. Breen, *American Insurgents, American Patriots* (New York: Hill and Wang, 2010).

⁵ For traditional military histories of the war see Robert Middlekauff, *The Glorious Cause: The American Revolution, 1763-1789* (Oxford: Oxford University Press, 2005), Don Higginbotham, *The War of American Independence: Military Attitudes, Policies, and Practice, 1763-1789* (New York: Macmillan, 1971), Christopher Ward, *The War of the Revolution* (New York: Macmillan Company, 1952), 2 vols. For an excellent, though geographically limited, study of the interplay of atrocity and restraint during the war in North Carolina see Wayne E. Lee, *Crowds and Soldiers in Revolutionary North Carolina: The Culture of Violence in Riot and War* (Gainesville: University Press of Florida, 2001). Recent work that has explored Anglo-American conflicts with Native Americans has further obfuscated just how widespread the violence of the revolutionary era really was by over emphasizing the violence of the frontier war in contrast to the "regular" war. Peter Silver, *Our Savage Neighbors: How Indian War Transformed Early America* (New York: W. W. Norton, 2008) and John Grenier, *The First Way of War: American War Making on the Frontier* (Cambridge: Cambridge University Press, 2005). Notable exceptions include Robert Parkinson, "Enemies of the People: The Revolutionary War and Race in the New American Nation" (Ph.D. diss., University of Virginia, 2005), and Michael McDonnell, *The Politics of War: Race, Class, and Conflict in Revolutionary Virginia* (Chapel Hill: University of North Carolina Press, 2007). John Shy, who came closest to noting the radicalism of the Revolutionary War, is in large measure responsible for its obfuscation. In his essay, "American Strategy: Charles Lee and the Radical Alternative," Shy examines Lee's view of American strategic aims and argues for their radical departure from conventional European ideas about strategy. Yet, because of his concentration on strategy, and Lee's ultimate failure to garner congressional support for his plans, Shy fails to appreciate the widespread and radical transformation in the revolutionaries' practice of war during the period. In the end, he concludes that "Historians have often noted that the American Revolution was a 'conservative' revolution, with surprising stability of institutions and continuity of leadership. But few have noticed that it was also militarily conservative." John Shy, *A People Numerous and Armed: Reflections on the Military Struggle for American Independence* (Oxford: Oxford University Press, 1976), 135-162, 161.

Focusing largely on battlefield operations, or on the social composition or combat motivations of American forces, the war's principal historians have neglected the problem of prisoners of war during the conflict. The majority of scholars who have examined the war's prisoners have chosen to focus on the experience of American prisoners held by the British. Those works that have looked at American treatment of enemy prisoners have concluded, from a narrow evidentiary base, that the Americans were generous and merciful to their captives. Moreover, few of these studies have adopted a chronological organization, thus failing to appreciate how American military practice evolved during the war. This dissertation, which is the first comprehensive analysis of American treatment of enemy prisoners during the revolutionary era, attempts to center the war, and its consequent horrors, in the scholarly debate about the character and consequences of the American Revolution. Long overshadowed in the scholarly literature by the violence of revolutionary France, the American Revolution, for those who endured it, was a searing experience for which they were entirely unprepared.⁶

⁶ Prisoners of war are hardly mentioned in either Charles Royster, *A Revolutionary People at War: The Continental Army and American Character, 1775-1783* (Chapel Hill: University of North Carolina Press, 1979) or James Kirby Martin and Mark Edward Lender, *A Respectable Army: The Military Origins of the Republic* (Wheeling, Ill. : Harlan Davidson, Inc., 2006). For a provocative and recent study of the British treatment of American prisoners see Burrows, *Forgotten Patriots*. See also: Larry G. Bowman, *Captive Americans: Prisoners During the American Revolution* (Athens, Ohio: Ohio University Press, 1976), Lindsey, "American Prisoners of War," Charles Henry Metzger, *The Prisoner in the American Revolution* (Chicago: Loyola University Press, 1971), 5-32, Richard H. Amerman, "Treatment of American Prisoners during the Revolution," *Proceedings of the New Jersey Historical Society*, 78 (1960), 257-75, Eugene L. Armbruster, *The Wallabout Prison Ships, 1776-1783* (New York, 1920), Danske Dandridge, *American Prisoners of the Revolution* (Charlottesville, VA: The Michie Company, 1911.), Alice M. Earle, *Martyrs of the Prison-Ships of the Revolution* (Philadelphia, 1895), George Taylor, *Martyrs to the Revolution in the British Prison-Ships in Wallabout Bay* (New York, 1855). For other accounts of American treatment of enemy prisoners see Gerald Haffner, "The Treatment of Prisoners of War by the Americans During the War of Independence," (Ph.D. diss., Indiana University, 1952), Daniel Krebs, *A Generous and Merciful Enemy: Life for German Prisoners of War During the American Revolution* (Norman, OK: University of Oklahoma Press, 2013), Judith L. Van Buskirk, *Generous Enemies: Patriots and Loyalists in Revolutionary New York* (Philadelphia: University of Pennsylvania Press, 2002), Martha W. Dixon, "Divided Authority: The American Management of Prisoners in the Revolutionary War" (Ph.D. diss., University of Utah, 1977), Paul J. Springer, *America's Captives: Treatment of POWs from the Revolutionary War to the War on Terror* (Lawrence: University of Kansas Press, 2010), and Robert C.

I came to this project at a time when one could not pick up a newspaper or turn on CNN without being confronted by a barrage of accounts of prisoner-of-war abuse. Political analysts and pundits, infatuated by what *Newsweek* termed "Founders Chic," delighted in contrasting contemporary American misdeeds with the "virtuous" and "humanitarian" practices of the revolutionary generation. Intrigued by the juxtaposition, I scoured the existing literature on the subject for evidence supporting their claims. Quotes from prominent revolutionary leaders abounded, professing the centrality of the humane treatment of enemy prisoners to the American cause. Elias Boudinot, the first American Commissary General of Prisoners and future president of the Continental Congress, was not alone when he boasted in 1777 that "humanity to Prisoners of War has ever been the peculiar Characteristic of the american [*sic*] Army." It looked as if the revolutionaries had been steadfast in their defense of the "laws of humanity" in the face of continual British atrocities. Maybe there was something to American "exceptionalism" after all. Pursuing the topic further, I wanted to know why the revolutionaries embraced what David Hackett Fischer called "An American Way of Fighting" that privileged "a policy of humanity"? The answer I came upon in the archives looked nothing like Fischer's laudatory assertion that the revolutionaries conducted the war "in a manner that was true to the expanding humanitarian ideals of the American Revolution." My findings challenged both my preconceptions about how the war was fought and about the centrality of the war itself to the broader phenomenon of

Doyle, *The Enemy in Our Hands: America's Treatment of Enemy Prisoners of War from the Revolution to the War on Terror* (Lexington: University of Kentucky, 2010). For a concise précis on the debates about the "American Way of War" see Wayne Lee, "Early American Ways of War: A New Reconnaissance, 1600-1815," *The Historical Journal*, vol. 44 (March, 2001), 259-89.

the American Revolution. The results of my research are arranged in a largely chronological narrative consisting of the six chapters briefly outlined below.⁷

The first two chapters of the dissertation establish the context for understanding the dramatic transformations in the revolutionaries' conduct of the war and analyze their treatment of British and allied prisoners during the first year of the struggle. Chapter One (The Vision of War) begins by examining the place of war within the intellectual and cultural world of Anglo-Americans on the eve of conflict with Great Britain. I explore the development of eighteenth-century Europe's culture of limited war, as well as its migration across the Atlantic, and I argue that these European norms shaped revolutionary Americans' *vision* of war: how it should, and would, be conducted. At the outset of hostilities, the revolutionary leadership expected the British to observe the norms of intra-European warfare and resolved to adhere to the same standards. Through their experience in the Seven Years' War and their reading of contemporary European military treatises and international juridical works, colonial American military authorities imagined this new war in European terms. They also believed that reconciliation with the British crown and Parliament was not only possible but probable. Thus, abusing the king's soldiers, sailors, and loyal subjects would do little to demonstrate the justice and legitimacy of their grievances. Chapter Two (The Novelty of War) reveals that such

⁷ Boudinot to James Wilson and Christian Forster. Morris Town, NJ. July 5th, 1777. Joseph Lee Boyle, *"Their Distress is almost intolerable": The Elias Boudinot Letterbook, 1777-1778* (Westminster, MD: Heritage Books, 2002), 14; Evan Thomas, "Founders Chic: Live from Philadelphia," *Newsweek* (July 9, 2001), 48; David Hackett Fischer, *Washington's Crossing* (Oxford: Oxford University Press, 2004), 375. For works that have attempted to contrast the United States' alleged violations of the laws of war during the "war on terror" with the revolutionaries' supposed adherence to them see Jane Mayer, *The Dark Side: The Inside Story of How the War on Terror Turned into a War on American Ideals* (New York: Doubleday, 2008), Philippe Sands, *Torture Team: Rumsfeld's Memo and the Betrayal of American Values* (New York: Palgrave, 2008), and Louis Fisher, *American Military Tribunals and Presidential Power: American Revolution to the War on Terrorism* (Lawrence: University of Kansas Press, 2005). For the most balanced account of this issue see John Fabian Witt, *Lincoln's Code: The Laws of War in American History* (New York: Free Press, 2012).

resolve on the part of the revolutionary leadership even survived popular demands for retribution for alleged British misconduct during the campaign to capture Canada. In the aftermath of the Declaration of Independence, the revolutionary leadership, no longer hopeful for reconciliation, was motivated by the desire to appear as a legitimate nation-state in the eyes of potential European allies. The cries and lamentations of British prisoners would serve only to undermine that cause. Enemy prisoners were no longer simply the inconvenient byproducts of revolt: they began to take on a symbolic meaning, as tangible evidence of American martial prowess and national legitimacy.

As the war progressed, and word of British abuse of American prisoners spread, the revolutionaries' vision of humane and moderate war began to fade. In Chapter Three (The Realities of War), I turn to the revolutionaries' campaign to suppress armed loyalism in 1776 and 1777. During this period, the threat of loyalist uprisings and the truly staggering mortality rate of American prisoners in British hands persuaded ordinary Americans to re-imagine their British foes as barbarians and loyalists as rebels and traitors. Reconceived in this way, the enemies of the revolution were no longer entitled to the protections of "civilized" warfare in their minds. The ramifications of this shift become manifest in Chapter Four (The Fortune of War), which examines the fate of the British army that surrendered under the protection of the Convention of Saratoga in 1777. By nullifying the Convention, Congress openly flouted the norms of the European culture of war that the revolutionary leadership had held sacrosanct at the commencement of hostilities. This radical departure from previous prisoner-of-war policy reflected a drastic shift in public opinion. In the spring of 1778, retaliation had come to dominate the public discourse on prisoner treatment, and Congress resolved to ignore the demands for

retribution no longer. By suspending the Saratoga captives' departure for England as stipulated by the Convention, while failing to provide for the prisoners' sustenance and support, Congress held the Convention army hostage for the duration of the war. Of the six thousand men who surrendered at Saratoga, fewer than eight hundred made it back to British lines at war's end.

Chapter Five (The Vengeance of War) looks at the brutal, backcountry civil war that developed in the south after the fall of Charleston in 1780. During this phase of the conflict, exaggerated accounts of British brutality radicalized southern revolutionaries, galvanizing them to wage a war of vengeance against Britons and loyalists alike. Embracing retaliation for enemy atrocities, the destruction of the property of enemy civilians, the revocation of surrender agreements, the wholesale arrest and imprisonment of enemy noncombatants, and the execution of prisoners of war, the revolutionaries engaged in a cycle of retaliatory violence in the last years of the conflict that would have been unthinkable at the war's outset. The war in the south was not a contest over abstract political principles, but an existential conflict for national, local, and individual survival. This was not the war the revolutionary elite had envisioned in 1775.

Set against the backdrop of the European culture of naval warfare, Chapter Six (The War at Sea) explores how this process of escalating violence unfolded in the case of captured British and loyalist privateers and naval personnel. In the aftermath of Parliament's criminalization of American privateering with the enactment of the High Treason Bill of 1777, revolutionary authorities responded not by reaffirming their dedication to the restraint of violence as enshrined in Enlightenment customs of the laws of war, but by declaring the British barbarians and loyalists rebels, both beyond the pale.

Reconceived in this way, British maritime prisoners became suitable targets for retaliatory violence. Despite continual British efforts to negotiate a large-scale, informal exchange of captive mariners, Congress refused to compromise. Only after the arrival of the articles of peace in 1783 did Congress relent.

As the struggle drew to a close, American pamphleteers and politicians decried the British treatment of American prisoners as “savage cruelty” and lauded the “justice and humanity” of the “virtuous Americans,” but both stories obfuscated the reality of America's war for independence. Revolutionary leaders had hoped to conduct the conflict according to the restrained principles of European warfare, but in the aftermath of independence they found themselves engaged in a struggle for national survival against a competing vision for America’s future. The violence of that conflict so far exceeded their pre-war conceptions of “civilized” warfare that the only way post-war Americans could reconcile their own part in the war's devastation was to deny it altogether. In their narratives of the war, accounts of the horrors of the British prison ships proliferated, coloring Americans' collective memory of the conflict. Unsurprisingly, the noisome and insalubrious conditions of American prison ships, jails, and camps where the king’s supporters were deprived of their liberty and often their lives by the very government purporting to defend those inalienable rights, faded from memory. In their place, later generations have accepted a narrative of American generosity, moderation, and humanity in warfare that persists to this day. Concerned primarily with teasing out the Revolution's ideological, social, economic, racial, or gender ramifications, historians have exacerbated this trend by largely ignoring the experiences of those whose lives were shattered by the conflict. As Allan Kulikoff has

reminded us, “Unless we understand the Revolution as a war—a violent and protracted conflict—we shall not understand it at all.” The Revolution's prisoners needed no reminder of its violence. To them, American independence brought only terror, penury, pain, and privation.⁸

⁸ *Freeman's Journal*, January 2nd, 1782, *Pennsylvania Packet*, January 19th, 1782 Burrows, *Forgotten Patriots*, 187; Allan Kulikoff, “Revolutionary Violence and the Origins of American Democracy,” *Journal of the Historical Society*, II, no. 2 (Spring 2002), 229-260, 232.

Chapter One: The Vision of War

George Washington had been in command of the infant Continental army for just over a month when he penned a letter of stern reproach to his former comrade, British Lieutenant General Thomas Gage, on “the Obligations arising from the Rights of Humanity, & Claims of Rank.” Washington rebuked his opponent for the treatment of American prisoners confined in Boston. In his scathing reprimand, Washington asserted that these men, most of whom had been captured during the fighting at Bunker Hill in May, were “thrown indiscriminately, into a common Gaol” overflowing with disloyal Bostonians, suspected spies, unruly redcoats, and common criminals. The wounded and sick sweltered alongside the healthy in the summer heat with only a single bucket of water a day for both hydration and sanitation. The prisoners were deprived of nourishment and “the Comforts of Life” at the whim of the British provost. In the opinion of one prisoner, “The place seems to be an Emblem of Hell.”¹

For Gage, an officer who had served with distinction in the 1745 Jacobite Rebellion, the War of Austrian Succession, and the Seven Years’ War, chastisement from a man whose most impressive military accomplishment had simply been to survive the defeat of General Edward Braddock in 1755 must have smacked of the impudence of a rank amateur. The British general would not tolerate a lecture on the proper conduct of

¹ When I use the appellation American, I am referring to those inhabitants of Britain's thirteen North American colonies who embraced rebellion and later independence. Those North Americans who stayed loyal to Great Britain will be referred to as loyalists. Washington to Gage. August 11th, 1775. Cambridge, MA. *The Papers of George Washington Digital Edition*, Theodore J. Crackel, ed., (Charlottesville: University of Virginia Press, Rotunda, 2008) <<http://rotunda.upress.virginia.edu/founders/GEWN>>, hereafter cited as *PGW*; “A Journal Kept by John Leach during His Confinement by the British, in Boston Gaol, in 1775” in *New England Historical and Genealogical Register*, (1865), vol. 19, 260, 259.

war from a novice and a traitor to his king and country. Gage reminded Washington that “under the Laws of the Land” he and his entire army deserved to hang for treason; simply foregoing summary execution was thus a sign of British mercy. He refused to countenance any claim of rank that was not derived from a king's commission. The officers would remain in the same jail with common criminals. Nevertheless, Gage strongly asserted that captured rebels had “hitherto been treated with care and kindness.” He defended this assertion by invoking European customs for the treatment of prisoners of war: “To the Glory of Civilized Nations, humanity and War have been compatible; and Compassion to the subdued, is become almost a general system.” This was language that Washington understood. Well-read in contemporary military literature and theory and a veteran of King George’s latest war against the French, Washington shared a set of values about the conduct of war with his British antagonist. As Gage’s comment indicates, the “civilized” nations of Europe possessed a common culture of war: what Wayne Lee has defined as “a broadly understood set of cultural expectations about the uses and forms of war.” By the late eighteenth century, Europe's culture of war emphasized restraining war's violence and protecting enemy prisoners.²

In order to recover revolutionary Americans' cultural expectations about the treatment of prisoners when war commenced in 1775, this chapter examines the factors that succeeded in limiting war's destructiveness and improving the plight of prisoners in eighteenth-century Europe, as well as their migration across the Atlantic. I argue that

² Both Washington and Gage had been present when British General Edward Braddock's army was defeated by a much smaller French and allied Native American force at the Battle of the Monongahela on July 9th, 1755. Gage to Washington. August 13th, 1775. Boston, MA. *PGW*; Lee, *Crowds and Soldiers*, 99.

these European norms shaped the colonial American elite's *vision* of how war should be conducted. While Americans had experienced over a century and a half of nearly endemic warfare with the native peoples of North America, they were largely unprepared to wage a European-style war in 1775. Nonetheless, revolutionary leaders thought they knew how the conflict would unfold. They imagined that both sides would conform to the prevailing European norms of acceptable violence in warfare. This vision of restrained and limited war as conducted amongst "civilized" peoples conditioned the revolutionary leadership's response to captured British soldiers when war erupted during the spring and summer of 1775. By treating their prisoners according to these European customs, influential revolutionaries, such as Washington, intended to demonstrate the legitimacy of their cause to their British enemies. Given the inherent illegitimacy of rebellion, they could hardly have done otherwise.

There was another vision of war available to colonial Americans, a vision that Washington, as a veteran of the French and Indian War, knew well: retaliatory warfare. In the colonial wars of the eighteenth century, Anglo-American forces had encountered in Native Americans an enemy with a very different understanding of the norms of acceptable violence in warfare. While the British and their American auxiliaries had hoped to conduct operations in North America during the Seven Years' War according to the practices of "civilized" nations, on the frontier, where war parties and rangers roamed, alleged atrocities committed by one side had been answered with severe acts of retaliation by the other. Away from the judgmental gaze of their European superiors, both Franco-Canadian and Anglo-American forces had aped the practices of their native allies, escalating the conflict's violence well beyond European norms. Twenty years

later, Washington and many of his fellow American veterans of the war were determined that their dispute with Britain would never devolve into a similar cycle of retaliatory violence. In this new war, enemy prisoners would be treated with humanity, according to an idealized vision of European practice. Or so they thought.

The Culture of War in Early Modern Europe



(Fig. 1)
The Battle of Fontenoy, by Henri Félix Emmanuel Philippoteaux, 1873
Victoria and Albert Museum

In 1873, the French painter Henri Félix Emmanuel Philippoteaux, still reeling from the astonishing defeat of his beloved *patrie* in the Franco-Prussian War, crafted an indelible image of war in an earlier, gentler, and more humane age: the age of

Enlightenment. In Philippoteaux's depiction of the 1745 battle of Fontenoy, the machines of industrialized late nineteenth-century warfare—the repeating rifle, the early machinegun, the railroad car—were replaced with billowing banners, shining spears, and glittering bayonets. The shelled-ruins of once vibrant cities and the corpses of unarmed civilians, all too common in France's latest conflict, had no corollaries in Philippoteaux's imagination of eighteenth-century warfare. The illustration of long, symmetrical, and ordered lines of French guardsmen under the command of lavishly uniformed, properly powdered, and exquisitely mounted officers patiently awaiting their English opponents' fire, bears little resemblance to the battlefields of 1870. The tableau is not devoid of death, but the victims are few and their wounds far from ghastly. The field of Fontenoy, as rendered by Philippoteaux, is neat and precise, clean and unsullied. In his vision of war, the battlefield remained distinct from the rest of society, a site where violence could be safely enacted in a limited, restrained, and controlled manner.³

Appealing both to his French audience's intense desire to recall a more victorious martial past and to their antiquarian fantasies of a more "enlightened" age, Philippoteux's painting portrays a culture of war radically different from that of his own time. Through Philippoteux's painting, Parisians could look back and imagine warfare "carried on with so much moderation and indulgence," to borrow eighteenth-century Swiss lawyer Emmerich de Vattel's phrase. In this vision of war, it was entirely probable that a French officer would hail his English counterpart from across the field to offer his adversary the pleasure of firing first. The contrast was stark. France's recent experience with war was

³ For an examination of atrocities committed by German soldiers during the Franco-Prussian War see Mark. R. Stoneman, "The Bavarian Army and French Civilians in the War of 1870–1871: A Cultural Interpretation," *War in History* 8.3 (2001), 271–93. For an excellent narrative account of the Franco-Prussian War see Michael Howard, *The Franco-Prussian War* (New York: Dorset Press, 1961).

characterized by mud, murder, and humiliating defeat. From the perspective of the late nineteenth century, war in the age of the Enlightenment was genteel, colorful, even elegant, and its violence controlled, limited, and restrained.⁴

While Philippoteaux's picture sanitizes and glorifies the charnel houses that were the fields of Malplaquet, Fontenoy, and Minden, his work nevertheless underscores a very real transformation in the conduct of war that limited the destructiveness and violence of warfare and improved the plight of prisoners of war in early modern Europe. A thorough examination of how the rules of war in Europe—or to phrase it differently, the cultural norms of war—developed during this period is crucial to understanding what eighteenth-century Britons thought about the conduct of war, and therefore how prisoners of war should be treated when fighting broke out in their North American colonies. This section explores the significant alterations in the organization of European armies, and even the states that raised them, the evolving culture of honor and restraint amongst the aristocracy, and the juridical tradition of the laws of war that all coalesced in post-Reformation Europe to ensure that warfare in the eighteenth century would look remarkably different from that of centuries prior. As products of this culture of war, eighteenth-century British officers carried these cultural norms with them to war in America.⁵

⁴ Emmerich de Vattel, *The Law of Nations; or, Principles of the Law of Nature Applied to the Conduct and Affairs of Nations and Sovereigns*, Book III, accessed August 5th, 2008, <http://www.constitution.org/vattel/vattel_03.htm>; David Bell, *The First Total War: Napoleon's Europe and the Birth of Warfare as We Know It* (New York: Mariner Books, 2007), 35.

⁵ I agree with Wayne Lee that culture is not a determinant of military affairs, but a society's understanding and expectations of legitimate conduct in war does “condition” actual practice. Lee, *Crowds and Soldiers*, 4.

The transformation of Europe's culture of war had its roots in the vicious religious conflicts of the seventeenth century. The Protestant Reformation that divided the continent launched Europe on a thirty-year path of destruction, disease, famine, and fury. With salvation itself at stake, Protestants and Catholics alike made little effort to mitigate the horror of war and proceeded to kill and maim one another on a scale not seen in Europe since antiquity. James Turner, an English volunteer serving with the Protestant forces of Sweden's Gustavus Adolphus, recalled the conduct of his Finnish allies: "After the battles I saw a great many killed in cold blood by the Finns, who professed to give no quarter." Europeans viewed this conflict in existential terms; the survival of Protestantism imperiled the future of Catholicism and vice versa.⁶

When prisoners of war were taken, their fate depended largely on the caprice of the captors. If the prisoner were a wealthy aristocrat or senior officer, he might be ransomed or exchanged for an equally wellborn captive on the other side. For common soldiers and civilians, who had little monetary value, the outcome was bleak. Housing and feeding large numbers of enemy prisoners were beyond the capacity of the mercenary armies and infant states that waged the religious wars. While occasional exchanges of prisoners did occur, those fortunate enough to be taken alive were very often impressed into the enemy's army. Most were simply put to death. The horrors of war were compounded by the prevalence of siege warfare. The populations of fortified cities and towns that resisted an enemy's conquest could expect the worst when the city's

⁶ Charles Carleton, *Going to the Wars: The Experience of the British Civil Wars, 1638-1651* (London: Routledge, 1992), 8, 19. Although the ancient Romans were very punctilious about declaring their justifications for going to war, they had few qualms about killing or selling into slavery enemy combatants and noncombatants alike. Robert C. Stacey, "The Age of Chivalry," in Michael Howard, George J. Andreopoulos, and Mark R. Shulman eds., *The Laws of War: Constraints on Warfare in the Western World* (New Haven: Yale, 1994), 27. For an excellent account of the Thirty Years' War see Peter H. Wilson, *The Thirty Years' War: Europe's Tragedy* (Cambridge, MA: Harvard University Press, 2009).

defenses failed: pillage, rape, and murder on a massive scale. Atrocities were legion, and the death toll staggering. Prisoners of war and civilian men, women, and children paid the price for the religious and political affiliations of their social superiors. Scholars estimate that the German states alone suffered over eight million fatalities during the first half of the seventeenth century. The Thirty Years' War so ravaged Europe that the image of marauding bands of mercenaries, owing allegiance to none but the highest bidder, pillaging, plundering, and purging their way across the continent, were still uncomfortably fresh in the imaginations of Europeans a century later.⁷

The 1648 treaty of Westphalia that ended the religious wars did not signal the end of warfare in Europe, but it did usher in a series of changes in the practice of war that had the surprising effect of constraining its horrors. When the cannons of the religious wars fell silent, the culture of war in Europe was already in a state of flux. Seventeenth-century armies looked very little like the feudal hosts of the middle ages. Numerous scholars have isolated and examined a series of developments in military technology, tactics, and organization that had a profound influence on the very structure of the European state and the conduct of war in this period. Michael Roberts and Geoffrey Parker have argued that Europe experienced an early modern "military revolution" that began with the introduction of gunpowder and resulted in the creation of a tax-supported, centralized, bureaucratic state necessary to pay and provide for the large armies needed to

⁷ Peter H. Wilson, "Prisoners in Early Modern European Warfare," in Sibylle Scheipers, ed., *Prisoners of War* (Oxford: Oxford University Press, 2010), 49, 51-52; Norbert Elias, *The Civilizing Process: Sociogenetic and Psychogenetic Investigations*, trans., Edmund Jephcott (Malden, MA: Blackwell, 1994), 163. Take for instance the siege of Magdeburg by imperial troops in 1631. The city was destroyed and over 20,000 people were killed. Wilson, "Prisoners in Early Modern European Warfare," 45; Bell, *The First Total War*, 45.

wield these gunpowder weapons in the complex tactical evolutions required by the new technology.⁸

The introduction of effective gunpowder weapons to Europe did not, however, have an immediate limiting effect on the violence of war. Initially, increased firepower produced increased casualties. The matchlock musket and its eighteenth-century successor, the flintlock, were hardly foolproof, but they were relatively simple and certainly deadly weapons. An untutored musketeer could be trained in the manual exercise in a matter of weeks—days if necessary—while the medieval long-bowman required years of constant practice to develop the muscle memory, and intuition, necessary to deliver his missile accurately. Once in the field, the musketeer's projectile could easily pierce the armor breastplates of his knightly opponents while the arrow rarely could. Although notoriously inaccurate, when massed together in the serried ranks advocated by Maurice of Nassau in the sixteenth century, musketeers could unleash a nearly continuous volley of fire upon the enemy. When the musketeers were properly protected by a shield of men armed with long pikes, the dominance of cavalry on the battlefield that had existed since the development of the stirrup was at an end. Battles could no longer be waged by a small class of aristocratic knights or by a cadre of mercenaries who sold their swords to the prince with the largest purse. The relative ease with which the matchlock musket could be manufactured and mastered by new recruits opened the door to the possibility of larger armies. By the end of the seventeenth

⁸ Geoffrey Parker, *The Military Revolution: Military Innovation and the Rise of the West, 1500-1800* (Cambridge: Cambridge University Press, 1996). For the best summary of this ongoing debate see Clifford J. Rogers, ed., *The Military Revolution Debate: Readings in the Military Transformation of Early Modern Europe* (Boulder, CO: Westview Press, 1995).

century, France's King Louis XIV boasted a royal army of 340,000 men: an unheard of number at the beginning of the century.⁹

Even for monarchs with more modest aims than *le roi soleil*, wars were not cheap and training soldiers with new weapons in novel tactics was beyond the means of minor lords or petit princes. Once armed and drilled, soldiers still had to be fed, paid, and clothed regardless of whether or not they were doing any actual fighting. Large standing armies of musketeers, dragoons, and artillerymen required a tremendous financial outlay for any monarch, and those who were most successful at war were very often those who had best harnessed the economic potential of their populations. Only an organized state apparatus, capable of extracting funds from its populace through taxation, could maintain such standing armies, especially in times of peace. Unsurprisingly, the value of a prosperous civilian population freed from the horrors and anxieties of war quickly became manifest to Europe's ruling elite. Farmers whose crops were not trampled, whose homes were not burned, and whose families were not molested or made prisoner, were much more likely to pay taxes than those who were all too familiar with the hard hand of war. Monarchs had a vested interest in curtailing the ravages of war to protect both their tax base and their newly created and tremendously expensive royal armies.¹⁰

The soldiers for their part could now expect steady pay and regular supplies of provisions and clothing, thus diminishing their need to "live off the land." Some of the

⁹ Ira D. Gruber, "Atlantic Warfare" in *The Oxford Handbook of the Atlantic World, 1450-1850* (Oxford: Oxford University Press, 2011), 419-20; Guy Chet, *Conquering the American Wilderness: The Triumph of European Warfare in the Colonial Northeast* (Amherst, MA: University of Massachusetts Press, 2003), 8-10; Carleton, *Going to the Wars*, 74; Gruber, "Atlantic Warfare", 427. For a thorough history of the rise of France's standing army in the seventeenth century see John A. Lynn, *Giant of the Grand Siècle: The French Army, 1610-1715* (Cambridge: Cambridge University Press, 1997).

¹⁰ William H. McNeill, *The Pursuit of Power: Technology, Armed Force, and Society Since A.D. 1000* (Chicago: University of Chicago Press, 1984), 161. I have borrowed Mark Grimsley's term "the hard hand of war." Mark Grimsley, *The Hard Hand of War: Union Military Policy Toward Southern Civilians, 1861-1865* (Cambridge: Cambridge University Press, 1997).

worst excesses of the Thirty Years' War had been occasioned by starving soldiers in search of sustenance or discharged mercenaries taking advantage of defenseless civilians. An army prowling for plunder could easily devolve into a rapacious mob; in such situations, theft often escalated into rape and murder. Plundering was not unknown to eighteenth-century armies, but the conduct of soldiers, loyal to the king's person rather than simply his coffers, could now be regulated by military discipline and punishment. Written articles of war specifying acceptable conduct proliferated, and they were enforced by the swift justice of the lash and the noose. The execution of prisoners of war, which had been all too common during the wars of religion, was discouraged because it eroded discipline and prompted reprisals. Paradoxically, the desire of early modern monarchs to wage war on a grander and more decisive scale actually served to limit the destructiveness of warfare by creating a disciplined soldiery that was required to respect civilian lives and property and spare enemy prisoners out of their superior's naked self-interest.¹¹

The changes to the character and composition of early modern armies resulting from the "military revolution" also improved the treatment of prisoners of war by increasing the value of an individual soldier's life. While the common foot soldier of medieval Europe was expendable in the eyes of his knightly superiors and was rarely taken prisoner, the monarchs of eighteenth-century Europe recognized the value of their professional soldiers and could ill afford to have them in enemy hands for long. The crowned heads of Europe established elaborate treaties, known as cartels, for the exchange of prisoners. These allowed for the speedy repatriation of prisoners, thereby

¹¹ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1977), 135-169; Hew Strachan, *European Armies and the Conduct of War* (London: Routledge, 1983), 8-22.

negating the need to feed and quarter enemy soldiers for the remainder of the war. Soldiers were exchanged according to mutually agreed rates based on their military rank: privates for privates, sergeants for sergeants, generals for generals. With exchange, rather than death, the likely result of captivity, recruiting parties found it far easier to attract new cannon fodder for the armies of Europe. Far from infallible, the cartel system nonetheless promised, even if it did not always deliver, relief and release from the hardship of prolonged captivity. With this system firmly in place, the capture of enemy prisoners became not only psychologically advantageous, by boosting the morale of the captors, but militarily beneficial as well.¹²

Once a monarch had gone to the expense of raising, equipping, and training an army in the latest evolutions of linear warfare, the slightest provocation might easily induce him to embrace hostilities. Although widespread revulsion at the violence of the Thirty Years' War had tempered religious fervor, Europeans were not at a loss for reasons to harm one another. As Montesquieu would later explain, "The spirit of monarchy is war and enlargement of dominion." Nevertheless, the goals of war became more modest. No longer vying for everlasting salvation, princes could make war over such mundane issues as territorial disputes, economic resources, and dynastic succession; and many did so with reckless disregard for cost. Eighteenth-century Europe experienced fewer than seven years of peace. Expansion, both in territory and the ever tenuous balance of power, required armies to be set on the march.¹³

¹² Wilson, "Prisoners in Early Modern European Warfare, in *Prisoners of War*," 50-52; Springer, *America's Captives*, 10; Caroline Cox, *A Proper Sense of Honor: Service and Sacrifice in George Washington's Army* (Chapel Hill: University of North Carolina, 2004), 204.

¹³ Charles-Louis de Secondat, baron de La Brède et de Montesquieu, *The Spirit of the Laws*, Anne M. Cohler, Basia C. Miller, and Harold S. Stone eds. (Cambridge: Cambridge University Press, 1989), Book 9, 132; Bell, *The First Total War*, 5. For the most recent examination of early modern Europeans"

When two opposing early modern armies collided, the results were predictably gruesome. Generals and military theorists both longed for battle and feared its consequences. The deadliness of battle, where men could be torn from the world of the living by projectiles invisible to the naked eye, imbued in it an almost mythical character in the minds of the combatants. In their view, battles were decisive, as if an indication of God's judgment or divine providence. The risks were high, but the rewards were real. A victory on the battlefield could presage a political settlement and the return of peace with the balance of power adjusted in the victor's favor. Their logic, as well as their battlefield formations, was linear; victory in war depended upon victory in battle.¹⁴

Nevertheless, the expense of battle, as well as the uncertainty of the results, prompted European generals to prefer maneuver to combat. Unlike one seventeenth-century military theorist who declared, "Of all the actions of war the most glorious and most important is to give battle," Maurice de Saxe, a titan of eighteenth-century-military thought and victor of the battle of Fontenoy, famously proclaimed, "I do not favor pitched battles...I am convinced that a skillful general could make war all his life without being forced into one." As one who reaped the rewards of victory—the king of France awarded him the palatial Château de Chambord in recognition of his victory at Fontenoy—de Saxe knew well the risks of battle and was understandably cautious. Each grenadier or fusilier he lost in battle was hard to replace. In the military culture of the day, generals faced no shame if victory could be achieved without risking a general action. Indeed, most eighteenth-century European conflicts consisted of, and very often were decided by, a series of prolonged sieges of towns and fortifications. In siege

attitudes about battle and its decisiveness see James Q. Whitman, *The Verdict of Battle: The Law of Victory and the Making of Modern War* (Cambridge: Harvard University Press, 2012).

¹⁴ Lee, *Crowds and Soldiers*, 106. See also, Whitman, *The Verdict of Battle*.

warfare, victory or defeat could be accurately estimated by a series of calculations: how long would the besieged garrison's food supplies hold, how many feet of trench could be dug in a day, how many rounds of solid shot were needed to batter a breach in the enemy's walls, and so forth. If the garrison were not relieved, the besieging force could expect victory without resorting to capturing the town by storm. The lives of both soldiers and civilians would be spared.¹⁵

Thus, while the battlefield became more lethal in the early modern period, battles themselves became increasingly rare occurrences. When two armies did meet on the Field of Mars, they were manned by professionals, loyal to their sovereign, who had been drilled, disciplined, and admonished from harming civilian populations. Enemy prisoners were granted quarter and provided for until they could be exchanged. There were of course myriad exceptions to these broad outlines, but eighteenth-century Europeans thought of them as just that, exceptional. Atrocities committed by soldiers invited strong rebuke and societal condemnation. Common soldiers alone, however, did not have a monopoly on the violence of war; they had to be led by their social superiors.

Eighteenth-century Europe was a deeply hierarchical society, and her armies reflected this hierarchy. While the rank and file could be controlled by discipline, drill, and corporal punishment, the officers, who were drawn from the aristocracy, landed gentry, and the moneyed elite, flocked to their king's standard to preserve and perform their honor and gain royal favor. Although not all eighteenth-century officers were aristocrats, they were all products of a society, and members of an institution, that

¹⁵ Carleton, *Going to the Wars*, 113; Maurice de Saxe, *Reveries*, in Thomas R. Phillips, ed., *Roots of Strategy: The 5 Greatest Military Classics of All Time* (Mechanicsburg, PA: Stackpole Books, 1985), 298-99; Bell, *The First Total War*, 45-6; Geoffrey Best, *Humanity in Warfare* (New York: Columbia University Press, 1980) 61.

sanctified aristocratic values. This phenomenon, described by Armstrong Starkey as a “culture of honor,” is crucial to understanding eighteenth-century Europeans’ perceptions, assumptions, and values about warfare.¹⁶

Honor was not a revolutionary concept; in fact, eighteenth-century aristocrats saw themselves as the lineal descendents of a proud medieval tradition of chivalry, service, and sacrifice for God and monarch. For them, honor could not be earned through piety, bravery, or loyalty however: honor was inherited. In their worldview, it was assumed that those of elevated birth possessed honor because their ancestors had been honorable. Those of more humble origin had precious few means of elevating themselves to rank among the innately honorable. Although honor could not be purchased, it could very easily be lost. Any insult, reproach, or slight that was not answered could deprive a noble of his honor. Appearing honorable in the presence of peers was paramount, and social ostracism faced the gentleman who declined an invitation to cross blades or exchange shots on the field of honor.

The possession of honor was best displayed through acts of valor. Facing an opponent in a duel was a public indication of courage. Valor could also be displayed on the field of battle, where princes dueled. The presence of tens of thousands of potential witnesses induced countless noble officers to chance their lives in foolhardy displays of dash and daring. In the eighteenth century, gallantry mattered only if it was conspicuous. Capturing an enemy's regimental color, leading a “forlorn hope” assault on a fortification, or engaging in single combat with a socially worthy enemy were undeniable indications

¹⁶ Armstrong Starkey, *War in the Age of Enlightenment, 1700-1799* (Westport, CT: Greenwood, 2003), chapter 3.

of the possession of honor. A common grenadier could be brave, but that was the base bravery of blind ignorance; only a gentleman could be valorous.¹⁷

Although obsession with honor could lead a European officer to accept a challenge over a trivial affair or to engage in reckless abandon on the battlefield, the centrality of honor to the eighteenth-century aristocrat's identity also had a limiting effect on the violence of war. As David Bell has argued, eighteenth-century nobles saw war as unexceptional, unavoidable, and even natural, but they also recognized their opponents on the other side of the battlefield as members of a common culture and caste. Aristocracy, though it took slightly different forms throughout Europe, looked much the same if you were in Paris or Vienna. Even in England, where the hereditary aristocracy was comparatively small, the landed gentry aped the styles, manners, and behaviors of their more illustrious continental peers. What might rightly be referred to as a pan-European aristocratic culture stressed rigorous standards of self-control. From the manner of their dress, to their posture, poise, and prose, European nobles were exceedingly conformist: excess was rigidly curtailed. This was not a society that valued eccentrics. Any behavior seen to be untoward would invite censure and dishonor.¹⁸

These deeply held values of restraint and self-control translated naturally to the battlefield. The bloodlust that so characterized the religious wars was incompatible with eighteenth-century aristocratic culture. While the battlefield was the natural theater of

¹⁷ Starkey, *War in the Age of the Enlightenment*, 70-71; Burrows, *Forgotten Patriots*, 27-28.

¹⁸ Bell, *The First Total War*, 34. For German sociologist Norbert Elias's account of the transformation of the European aristocracy from the warrior elite of the medieval period to the courtier elite of the eighteenth century see Elias, *The Civilizing Process*, especially 387-97. See also Norbert Elias, *The Court Society* (New York: Pantheon Books, 1983) and Norbert Elias, *The History of Manners* (New York: Pantheon Books, 1982). Michael Howard has suggested that eighteenth-century warfare, which placed "positive constraints on the conduct of war", depended on the shared values of European aristocrats' "homogeneous culture." Michael Howard, "Temperamenta Belli: Can War be Controlled?" In Michael Howard ed., *Restraints on War: Studies in the Limitation of Armed Conflict* (Oxford: Oxford University Press, 1979), 5.

the aristocracy, noble officers could not be seen to enjoy their part too much. Death in the service of one's king was a noble sacrifice, but the taking of a common soldier's life was beneath the dignity of a noble. Officers carried flimsy and highly decorated swords and nearly useless pikes, known as spontoons, rather than firearms. They were expected to set an example of personal bravery under fire but to leave the killing to the common men. It was also incumbent upon officers to restrain their soldiers from any excesses in the heat of battle. This rule applied doubly to the protection of wounded or captured enemy officers. Seeing their opponents as fellow gentlemen and nobles, or as Wayne Lee has termed it "brothers," European officers granted quarter and the "honors of war" to their conquered foes.¹⁹

Once captured, defeated officers who had behaved honorably in battle could expect from their captors every courtesy in proportion to their rank and social station. Upon offering their parole of honor not to escape or aid the enemy, these men would customarily be allowed to retain their swords and personal property. It was not uncommon for noble officers to entertain their captured opponents as dinner guests. Captured officers likewise escaped the rigors of confinement and were allowed to live as lavishly as their purses, or lines of credit, would allow until they could be honorably, if not always equitably, exchanged. Many officers were allowed to return to their homes to await exchange or the cessation of hostilities in ease and comfort. The entire system was predicated upon an officer's scrupulous adherence to his word of honor.²⁰

¹⁹ Elias, *The Civilizing Process*, 161-172. As Vattel phrased it, "If, sometimes, in the heat of action, the soldier refuses to give quarter, it is always contrary to the inclination of the officers, who eagerly interpose to save the lives of such enemies as have laid down their arms." Vattel, *The Law of Nations*, Book III; Wayne E. Lee, *Barbarians and Brothers: Anglo-American Warfare, 1500-1865* (New York: Oxford University Press, 2011), 3.

²⁰ Caroline Cox, *A Proper Sense of Honor*, 206.

Officers who violated the norms of self-restraint or betrayed the confidence of their peers were very often publically castigated. Fear of ostracism, and the constant need to be seen as honorable, prompted many officers to adopt a punctilious insistence on the protocol of war. Form mattered as much if not more than function. Negotiations between opponents required elaborate rituals that could drag out interminably as each side acknowledged, praised, and saluted the other. The least breach of etiquette evoked strong rebuke. When opposing officers entered into conventions, treaties, or agreements, it was understood that the terms were inviolate. Refusing to accept offers of surrender, denying care to the wounded, or reneging on treaties all reflected poorly on the perpetrators. With honor at stake, material advantage took a backseat to decorous conduct. For most eighteenth-century nobles, death was preferable to dishonor.²¹

Practical considerations also supported the moderation of war's violence. Given the relative ease with which European powers shifted their military alliances, it was common for officers who served with one another in the past to be arrayed against each other in the next conflict. Friendships that bridged the battle lines were commonplace, and officers who had been prisoner with the enemy and well treated relished the opportunity to return the favor. European nobles recognized their own self-interest and readily adopted unwritten codes of conduct based on the principle of reciprocity.²²

Predictably, the culture of war in the age of the Enlightenment had its intellectual influences as well. What is surprising is how little the Enlightenment's quest for rationality permeated the battlefield. As David Bell has demonstrated, the great

²¹ Best, *Humanity in Warfare*, 61; Starkey, *War in the Age of Enlightenment*, 95; Caroline Cox, *A Proper Sense of Honor*, 206.

²² Geoffrey Parker, "Early Modern Europe," in Howard, Andreopoulos, and Shulman eds., *The Laws of War*, 55; Best, *Humanity in Warfare*, 60.

Enlightenment *philosophes* wasted little time devising methods to mitigate war's horrors. Instead many imagined the dawn of an age without war: peace in perpetuity. Eighteenth-century soldiers and statesmen, however, did not share this grand vision. Most imagined that war was inevitable, and they prepared accordingly. Nonetheless, they were not insensible of the need to rationalize their behavior. In so doing, Europe's elite warriors drew on a longstanding intellectual current: the laws of war.²³

Laws governing both when to go to war, *jus ad bellum*, and those for how to conduct the process once war was declared, *jus in bellum*, had existed in Europe since early Christian theologians struggled with the bellicosity of their secular rulers. These Christian intellectuals, however, were principally interested in defining what constituted just war; the governing of war's practice they left to its practitioners. The intellectual tradition of the laws of war continued to evolve in Renaissance and early modern Europe, but it was not until the mid-eighteenth century that Swiss jurist Emmerich de Vattel popularized a series of laws for the conduct of war.²⁴

Vattel, like other European aristocrats, was utterly obsessed with form and the appearance of propriety. His 1758 treatise, *The Law of Nations*, clearly reflected the values of the aristocratic culture of war into which he was born. Although Vattel paid lip service to the standard justifications for going to war, he invariably agreed with the

²³ For a thorough examination of the relationship between war and the Enlightenment see Starkey, *War in the Age of the Enlightenment*. Geoffrey Best has famously argued that the eighteenth century experienced an "Enlightenment consensus" that sought to humanize the practices of war. Best, *Humanity in Warfare*, 25-36, but Geoffrey Parker has convincingly suggested that all of the principal factors that constrained the practice of war in the eighteenth century existed before 1700. See Parker, "Early Modern Europe," in Howard, Andreopoulos, and Shulman eds., *The Laws of War*. For a strong caution against over-emphasizing the effects of Enlightenment thought on the practice of war see Bell, *The First Total War*, 51, 52-83.

²⁴ According to Eliga Gould, Vattel "enjoyed near canonical status in Britain and the colonies." Eliga H. Gould, "Zones of Law, Zones of Violence: The Legal Geography of the British Atlantic, circa 1772," *The William and Mary Quarterly*, 3d Series, Volume LX, Number 3. (July, 2003), 471-510, 477; Michael Howard, "Constraints on Warfare," in Howard, Andreopoulos, and Shulman eds., *The Laws of War*, 3.

framework established by St. Augustine: what mattered was that once begun, war should be conducted with honor and restraint. When looking at the battlefields of Europe, he was generally impressed. Vattel observed, "At present, the European nations generally carry on their wars with great moderation and generosity." This moderation was commendable, but standard and customary practice needed to be codified lest violators claim ignorance in exculpation of misbehavior. For Vattel, such a code was deducible from the laws of nature and amounted to a series of "maxims of humanity, moderation, and honour." Once a law of nations was promulgated, the court of international opinion would see it enforced.²⁵

What exactly did Vattel's vision of moderate and generous war look like? He began with the premise that there was a common humanity with shared interests among the "civilized" peoples of Europe. Seemingly obvious, this simple premise forbade the very frequent tendency of armies to demonize their enemies. Parliamentary troops during the English Civil War had found massacring Royalists easier if they renamed them "Papist Dogs," and Royalists in turn excused their excesses by labeling their foes as "Rebel Vermin." This form of dehumanization was just the type of behavior that Vattel hoped to avoid. He argued, "Let us never forget that our enemies are men. Though reduced to the disagreeable necessity of prosecuting our right by force of arms, let us not divest ourselves of that charity which connects us with all mankind." With common humanity established, enemies could no longer butcher one another indiscriminately. Civilians as well had "nothing to fear from the sword of the enemy" because "at present,

²⁵Vattel drew on a Christian framework for the justification of war developed by Saint Augustine and Thomas Aquinas that allowed the prosecution of war in order to recover belongings, to provide for future safety, or to defend oneself from injury. See Starkey, *War in the Age of Enlightenment*, 17; Vattel, *The Law of Nations*, Book III.

war is carried on by regular troops: the people, the peasants, the citizens, take no part in it.”²⁶

Even in war conducted between regular armies, enemy soldiers were subject to capture; yet for Vattel, their status as prisoners of war was not incompatible with the dictates of humanity. He warned combatants, “As soon as your enemy has laid down his arms and surrendered his person, you have no longer any right over his life.” Although he did not go as far as twentieth-century military jurists by suggesting that prisoners of war had any rights other than to their lives, he asserted that the execution of prisoners had no place in contemporary warfare. For their habit of massacring the survivors of battles, Vattel rebuked the ancient Greeks and Romans. By contrast, he lauded England and France as “generous nations” for their treatment of prisoners during the Seven Years' War. Prisoners of war, he reminded his readers, “are men, and unfortunate.” European nations deserved praise because prisoners of war were “seldom ill-treated among them.” Vattel no doubt approved of the civilian committee established in England in 1758 to “relieve the wants of the French Prisoners of War.” The English intellectual Samuel Johnson summarized the prevailing European opinion when he wrote in favor of the committee: “The relief of enemies has a tendency to unite mankind in fraternal affection; to soften the acrimony of adverse nations, and dispose them to peace and amity.”²⁷

Violence remained a useful tool in war, however, and Vattel was quick to admit that civilian property could be seized and cities bombarded if deemed militarily

²⁶ Vattel, *The Law of Nations*, Book III.

²⁷ Vattel, *The Law of Nations*, Book III; Samuel Johnson, “The Introduction to the Proceedings of the Committee Appointed To Manage The Contributions, Begun at London, Dec, 1758, For Clothing French Prisoners of War,” in *The Works of Samuel Johnson, L.L. D.*, Arthur Murphy, ed., 12 vols. (Boston: Hastings, Etheridge and Bliss, 1809), 2:420.

necessary. In his view, the entire population of an enemy's country was at least theoretically at war; therefore, civilians who actively supported military activity were legitimate subjects of violence. Retaliation was a just and necessary means of requiring the enemy "to observe the laws of war." The gray area created by these concepts of military necessity and reprisal were used by many eighteenth-century generals to justify conduct that was not strictly generous. Nonetheless, Vattel was clear: violence perpetrated without a direct military end was forbidden. As he termed it, "All damage done to the enemy unnecessarily, every act of hostility which does not tend to procure victory and bring the war to a conclusion, is a licentiousness condemned by the law of nature." Vengeance was not sufficient cause to escalate retaliation beyond what modern legal scholars call proportionality. Generosity and moderation were to be admired. In Vattel, we see the vision of war that Philippoteaux imagined when he painted the Battle of Fontenoy over a century later: war carried on by two rival armies of disciplined professionals, officered by aristocrats who shared a common culture, and prosecuted without harming civilians or prisoners of war. Unlike centuries past, the battlefield, rather than the farmer's cottage, parish church, or village square, was the primary locus of human destruction.²⁸

Eighteenth-century soldiers, however, had little to learn from Vattel. Vattel's laws only reinforced the "customs and usages of war" as they already knew them. Geoffrey Best has referred to Vattel as a "publicist," and the appellation is apt. Vattel was no innovator, but he did refine and make public a series of ideas about the conduct of war that had been developing for centuries. The work of seventeenth-century Dutch jurist Hugo Grotius was chief among his intellectual debts. Living during the religious

²⁸ Best, *Humanity in Warfare*, 54-55; Vattel, *The Law of Nations*, Book III.

wars when all of Europe seemed to be in arms, Grotius turned his pen to the practice of war. His 1625 treatise, *The Law of War and Peace*, laid out a bold agenda to restrain the conduct of war. War, he accepted, was natural, even necessary, but it could and should be controlled. He strongly discouraged the execution of prisoners and promoted a system of exchange. Although his writings had little effect in his own day, a period characterized in Grotius' words by "a lack of restraint in relation to war, such as even barbarous races should be ashamed of," his work did have a lasting influence on both international relations and the conduct of war. Published in England in 1654, *The Laws of War and Peace* proved popular with a people torn apart by their own religiously motivated civil war. The juridical works of Grotius and Vattel gave voice to the prevailing sentiment of moderation in warfare that developed in Europe in the aftermath of the Thirty Years' War. The laws of war lent authority to a code of conduct that was already comfortable, customary, and respected by European nations. The structural transformations in the European nation-state in the early modern period allowed for their widespread adoption in a manner never before possible.²⁹

Eighteenth-century soldiers and military jurists agreed, however, that the laws of war did not extend to political traitors, domestic rebels, or the "uncivilized," such as the indigenous populations of European empires. This caveat to the "laws of humanity" was based on the presumption that rebels and non-Europeans were beyond the pale of society and civilization and therefore would not obey the laws of war. European armies could

²⁹ Wayne Lee has argued, "In many ways, Grotius, Vattel, and other early modern jurists merely codified customs created in previous centuries, but this process of codification created a kind of feedback loop in which custom and written premise (or 'law') reinforced each other." Wayne Lee, *Barbarians and Brothers*, 189; Best, *Humanity in Warfare*, 32. According to Ira Gruber's study of the reading preferences of British officers during the American Revolution, Grotius's *The Laws of War and Peace* "was clearly among the books on war that [these] officers considered an authority." Ira D. Gruber, *Books and the British Army in the Age of the American Revolution* (Chapel Hill: University of North Carolina Press, 2010), 180.

not be expected to maintain a higher standard than their “savage” enemies. When fighting “the other,” towns and villages could be burned, crops plundered, and noncombatants enslaved and killed. Some of the most horrific excesses in the history of warfare occurred in this age of limited war when European armies imposed their will upon the native peoples of America, Africa, and Asia and ruthlessly suppressed internal revolts and rebellions. In conflicts such as these, where European cultural restraints on war lapsed, violence begot more violence.³⁰

While the unrestrained application of violence against non-Europeans, or the cultural “other,” required little justification, the issue of rebellion posed more problems. Rebellion proved particularly vexing for Vattel who devoted considerable space to the subject. He maintained that, “Every citizen should even patiently endure evils, which are not insupportable, rather than disturb the public peace” by engaging in rebellion. In the case of armed rebellion, Vattel defended the sovereign’s right and “duty to repress those who unnecessarily disturb the public peace.” Yet Vattel was also aware of historical instances in which monarchs had exceeded their duty by ravaging rebellious provinces and executing rebel prisoners. Such severity, though sanctioned by the laws of war, was inadvisable and inconsistent with justice. Vattel advised monarchs “to show clemency towards unfortunate persons” and to suppress the rebellion with moderation. Rebels rarely entered the conflict with established military forces; and naturally they evinced a haphazard and amateurish image unrecognizable to professional soldiers as anything

³⁰ For an account of how European norms of legitimate violence in warfare devolved during the 1675 conflict in Massachusetts, known to the colonists as King Philip's War, see Jill Lepore, *The Name of War: King Philip's War and the Origins of American Identity* (New York: Vintage Books, 1998); Bell, *The First Total War*, Chapter 1; Best, *Humanity in Warfare*, chapter 1. Parker, "Early Modern Europe," in Howard, Andreopoulous, and Shulman, eds., *The Laws of War*, 56-57 and Harold E. Selesky, "Colonial America," in *ibid.*, chapter 5.

other than civilians in arms. Seen as subjects rather than soldiers by their adversaries, these captives faced the judgment of civilian law for treason and sedition: almost certainly the death penalty. If, however, the rebels were numerous and organized enough to field a professional style army, the rules changed; the conflict became a civil war in which the sovereign must observe the laws of war. Monarchs ignored this distinction at their own peril; unfettered cruelty would be met with reprisal and retribution.³¹

In practice, few eighteenth-century monarchs heeded Vattel's advice. Rebellions, no matter how futile, struck at the very heart of a regime's legitimacy. A single victory might easily legitimize the rebel cause and destabilize the regime. This phenomenon was compounded in monarchies, in which power rested on the ephemeral shoulders of a single life. When eighteenth-century British North American colonists resorted to arms to obtain redress for their grievances with Britain's ministry and parliament, they were well aware of the crown's record of brutally suppressing domestic rebellions. Lingering disputes over dynastic succession and confessional politics resulting from the English Civil Wars and the Glorious Revolution of the seventeenth century prompted numerous Irish and Scots to oppose the Hanoverian succession by force of arms. Although these rebellions appear in hindsight to have been reckless and doomed to failure, they had the very real potential of devolving into civil war, or worse yet, inviting an invasion by Catholic France or Spain. The English had already executed one king and dethroned another by the close of the seventeenth century; and although most Britons rejoiced in the Protestant succession, few were assured of its perpetual ascendancy and even fewer were willing to defend it with their lives.

³¹ Vattel, *The Law of Nations*, Book III.

From the point of view of American colonists contemplating revolt, Britain's suppression of the 1745 Jacobite Rebellion was a sobering precedent. That rebellion began when highland Scots under the command of Prince Charles Edward Stuart, the son of a pretender to the British throne, captured Scotland, brushed away a British army at Prestonpans, and marched on London. Hanoverian Britain's response to the exiled Stuart dynasty's last grasp at the throne was swift and harsh. When government forces brought the Jacobite rebels to battle at Culloden in April of 1746, calls for quarter went unheard and prisoners perished alongside unarmed civilians. In the aftermath of the battle, British dragoons mercilessly cut down fleeing Scots without concern for age, sex, or dynastic allegiance. King George II's son, William Augustus, the Duke of Cumberland, earned the macabre moniker of "the Butcher" in the weeks following the rebellion's defeat. Throughout that summer, the British army launched punitive expeditions into the highlands. Their orders were chillingly simple: "You will constantly have in mind to distress whatever country of rebels you may pass through, and to seize or destroy all persons you can find who have been in the rebellion or their abettors." None who had supported the rebel cause were to survive.³²

The suppression of the Jacobite Rebellion did not, however, rise to the level of what came to be called in the twentieth century "genocide." Most former Jacobites escaped with their lives; it was their cause and culture that Hanoverian Britain was determined to stamp out. A series of laws aimed at remaking the highlands into a loyal,

³² W. A. Speck, *The Butcher: The Duke of Cumberland and the Suppression of the 45* (Cardiff: Welsh Academic Press, 1995), 148-49, 164. For a general account of the suppression of the '45, see Jeremy Black, *Culloden and the '45* (Stroud, Gloucestershire: Sutton Publishing, 1990). For an analysis of how the British government dealt with Jacobite prisoners during the earlier 1715 rebellion see Margaret Sankey, *Jacobite Prisoners of the 1715 Rebellion: Preventing and Punishing Insurrection in Early Hanoverian Britain* (Aldershot, UK: Ashgate Publishing Limited, 2005).

docile, and above all Protestant region succeeded in drawing the highlanders into the British imperial fold. Nevertheless, the British army's terror campaign in the highlands was so shocking to those on the receiving end that it has scarce been forgotten since. In England, the violence was portrayed in print and pamphlet as the just vengeance of a righteous monarch. The virulence of the popular reaction to the Jacobite challenge reflected not only the very real threat that Charles Stuart and his highlanders posed to the Hanoverian dynasty, but also the cultural, religious, and ethnic differences between the highlanders and other Britons. Most early modern rebellions occurred within a single polity whose denizens shared similar conceptions about the practice of war, thus limiting the violence of their conflict; but when the rebels were seen as culturally distinct, as was the case in the rebellions on Britain's Celtic fringe, the laws and customs of war did not apply. The principal leaders of the rebellion, except Prince Charles, who narrowly escaped, were tried and many were put to death for "High treason and levying War." The precedent was set; rebel was synonymous with traitor, and traitors were hanged. In the imaginations of late-eighteenth-century Britons, the Jacobites had made rebellion so odious that execution seemed the only fitting punishment.³³

Perhaps their greatest sin in the eyes of most Englishmen was that the Jacobites had failed to organize an army of regulars that employed conventional tactics and obeyed the norms of the culture of war in Europe. The highland host descending from the mountains looked "like troops of hungry wolves" to one Hanoverian loyalist. Through their conduct of the war, the Jacobites lost the struggle for legitimacy in the eyes of enemies and sympathizers alike. Their behavior was outside the norms of conduct for "civilized" warfare as embodied by the redcoated professionals who opposed them and

³³ Starkey, *War in the Age of Enlightenment*, 149; Burrows, *Forgotten Patriots*, chapter 2.

codified in the juridical works of Grotius and Vattel. Their transgressions called out for retaliation in kind.³⁴

The suppression of the '45 is an instructive case for understanding the limits of the cultural restraint of warfare in eighteenth-century Europe. Because rebellions by their very nature call into question the legitimacy of the political order, European monarchs were loath to legitimize their conduct by observing the customs and conventions of “civilized” warfare. Rebellions presented monarchs, and the aristocrats and armies who defended them, with an existential problem. Unlike defeat at the hands of a neighboring monarchal state, which at its worst would redraw the map and shift the balance of power, failing to quell a rebellion could prove a regime’s unmaking. It was not enough to simply defeat the rebels, they had to be crushed, both to exterminate all life from the movement and to dissuade future adventures. Although the modern descendants of the British regiments that fought at Culloden prefer not to remember their regiments' part in suppressing the rebellion, the officers and soldiers who engaged in that campaign were proud of their service and saw nothing incongruous about their behavior. The British suppression of the 1745 Jacobite rebellion reveals that when rebellion was compounded by cultural difference, eighteenth-century Europeans were capable of and inclined to excessive cruelty and disregard for the humanity of their opponents. The helpless—civilians and prisoners of war—suffered most of the horrors.

As Wayne Lee has demonstrated, eighteenth-century warfare was characterized by this duality: atrocity and restraint. The “butchers” and “hangmen” of Culloden were also capable of accepting a French officer’s surrender, returning his sword, and inviting

³⁴ A Scot serving in the government forces at the battle of Culloden described the Jacobites as “troops of hungry wolves.” John Prebble, *Culloden* (London: Secker & Warburg, 1961), 95.

the unfortunate man to dine. They were products of a culture of war that had developed over the previous century as a result of structural changes in European armies and states brought about by the “military revolution,” the burgeoning culture of honor and restraint shared by Europe’s aristocracy, and the evolving legal traditions of the laws of war. In this culture of war, violence between “civilized” nations was largely limited to the sanguinary, though increasingly rare, confrontations between professional armies in battle. French military theorist Jacques de Guibert summarized the prevailing European opinion in his 1773 essay on tactics: “War is become less barbarous and cruel. When battles are finished, no longer is any blood shed; prisoners are well treated, towns not sacked, countries are not ravaged and laid waste.”³⁵

When British soldiers crossed the Atlantic to combat another rebellion in 1775, the memory of the ’45 was alive and well, but so too were Vattel’s cautions and the customs of war among “civilized” nations. The Americans were not an alien or “savage” people, and they did not pose an immediate threat to the stability of the Protestant succession or the Hanoverian dynasty. How would the British army respond? The New Englanders who opened fire on British soldiers in April of 1775 thought they knew. On the eve of war, most Americans not only saw themselves as the just inheritors of the rights of freeborn Englishmen, they also shared the same set of deeply ingrained values and expectations about the conduct of war as their British opponents. They would march off to war confident that their conduct, and that of their enemy, would conform to customs of “Humanity and Politeness.”³⁶

³⁵Lee, *Barbarians and Brothers*, 1; Guibert quoted in Starkey, *War in the Age of the Enlightenment*, 56.

³⁶Washington to Gage, August 19th, 1775. Camp at Cambridge, MA. *PGW*.

War in Colonial America to 1775

By the spring of 1775, war had come to the colonies; but how would it be fought and what fate would befall its prisoners? To answer these questions, it is necessary to first examine colonial American conceptions of war, and the accepted treatment of enemy prisoners, prior to the outbreak of hostilities. While not denying the very real effects of the peoples, ecology, and topography of North America on practice of war in the early stages of English colonization, by 1775 the Anglo-Americans elite shared the prevailing European culture of limited and restrained war. In their vision of "civilized" warfare, enemy prisoners were to be treated with politeness and compassion, but rebellion and savagery were not to be tolerated.

While most late eighteenth-century Americans were novices at the practice of war, they were hardly pacifists. Warfare had been a reality in colonial America since the first Europeans landed in the new world. English colonists arrived in Virginia wearing armor, with swords drawn and muskets primed. Much of the leadership of the English colonial effort had learned well the lessons of war on the continent and in Ireland. Over the next century and a half, colonial Americans faced the nearly omnipresent threat of European rivals, in the form of Catholic Spanish and French forces, and hostile Native Americans. Much like their contemporaries in Europe, colonial Americans accepted war as unavoidable, even necessary.³⁷

³⁷ The obvious exception to this characterization was the Society of Friends. I agree with John Morgan Dederer's account that stresses the colonists' inexperience at European-style warfare in 1775. John Morgan Dederer, *War in America to 1775: Before Yankee Doodle* (New York: New York University Press, 1990), 22. For an account that argues for the militancy of early America, see John Ferling, *A Wilderness of Miseries: War and Warriors in Early America* (Westport, CT: Greenwood Press, 1980). More than one historian has suggested that the European colonization of the Americas was an armed "Invasion." See Francis Jennings, *Invasion of America: Indians, Colonialism, and the Cant of Conquest* (New York: W.W. Norton & Co., 1975), Ian K. Steele, *Warpaths: Invasions of North America* (Oxford: Oxford University

The conduct of warfare in colonies, however, diverged quickly from the European model. The verdant open fields and gently undulating hills of the Low Countries, France, and Germany that had facilitated the rise to primacy of musket-armed infantry in the sixteenth century were nowhere to be seen in America. Densely packed forests prevented anything close to the rigid discipline of the European battlefield from becoming a reality in the New World until the eighteenth century. The absence of an established infrastructure of roads, magazines, and cantonments hindered the movement of troops; and starvation and new world diseases decimated the ranks of militarily eligible men.³⁸

To compound their woes, English colonists encountered an enemy in the native peoples of North America that possessed its own deeply embedded set of cultural norms about the legitimate practice of war, one entirely at odds with that of the Europeans. One historian has dubbed the resultant conflict as a “collision of military cultures.” Predictably, cultural misunderstandings about what constituted the legitimate practice of war exacerbated tensions and escalated violence. Numerous scholars have analyzed Native American cultures of war, some even arguing for a monolithic “Indian way of war,” but all agree that European practices of war were as foreign to the native peoples of America as Indian methods appeared to Europeans. Wayne Lee has pointed to the cognitive dissonance created by these divergent conceptions of war and its practices as the primary cause of the rapid escalation of violence in wars between Native Americans and European colonists. Others have emphasized proto-racial hierarchies in European thought, changing conceptions of Indian technologies and bodies, or prior European

Press, 1994), John Ferling, *Struggle for a Continent: The Wars of Early America* (Arlington Heights, IL: Harlan Davidson, Inc., 1993), and Lee, *Barbarians and Brothers*, 122-4.

³⁸ For an account of the topographical problems faced by English colonists in Virginia during their wars with the Powhatan see Steele, *Warpaths*, chapter 3.

experience with extirpative war. Whatever the root cause or causes, it is evident just as Europeans began to embrace both stated and implied restrictions on war's cruelty, American colonists and their Indian adversaries adopted increasingly horrific and deadly practices in their wars with one another. Attacks on Native American villages and crops escalated precipitously into enslavement and massacre. Those considered uncivilized or savage by the English colonists, as had been the case of the Catholic Irish in the sixteenth century, were unworthy of any protection from the fury of war.³⁹

Military institutions in the colonies also developed differently from their European counterparts. While seventeenth-century European monarchs increasingly relied on armies of professionals paid for by expansive tax bases, American colonists looked to themselves for their defense in the form of militias. The concept of universal male military service was hardly an American innovation; its roots can be traced to the ancient world and its practice enshrined in the Magna Carta. An island nation protected in theory, if not always in practice, by the "wooden walls" of her navy, England had little need for a professional army on the scale of France or Spain and consequently boasted a strong militia tradition. Civilians as soldiers also made sound political sense to a people deeply suspicious of the power and prerogative of royalty unchecked by Parliament. A

³⁹ Adam J. Hirsch, "The Collision of Military Cultures in Seventeenth-Century New England," *The Journal of American History*, Vol. 74, No. 4 (Mar., 1988), 1187-1212; Lee, *Crowds and Soldiers*, 117; Lee, *Barbarians and Brothers*, 166. For English colonists' prior experience with extirpative war see Ferling, *A Wilderness of Miseries*, which argues that the endemic violence of Native American warfare allowed war to take on a redemptive character for colonial American society. While warfare in Europe was itself undergoing significant changes, becoming more limited, more restrained by elite aristocratic culture as the tensions over religious warfare died down, American warfare began to adapt to the wilderness environment. As the high Enlightenment's revulsion to war began to take hold in Europe, Americans adopted a military culture that lauded soldiers and celebrated the coming of war. For the effects, or lack thereof, of Native American warfare on the conduct of war in early America see Chet, *Conquering the American Wilderness*, Grenier, *The First Way of War*, and Armstrong Starkey, *European and Native American Warfare, 1675-1815* (Norman: University of Oklahoma Press, 1998). For an examination of English colonists' unwillingness to grant Native American warriors the customary protections of European warfare see Selesky, "Colonial America," in Howard, Andreopoulos, and Shulman, eds., *The Laws of War*, 60-62.

less than virtuous monarch might use his army to impose an alien religion or subvert English liberties. While the kings of England might have aspired to a royal army on par with that of the French kings, Parliament's "power of the purse" prevented such excesses. When King Charles I, and later his son James II, attempted to circumvent Parliament by creating ever larger armies of professionals, Parliament and its supporters responded with violence. King Charles lost his head, his son, merely his crown. For seventeenth-century Englishmen, power and liberty were at odds and nothing represented the corrupting influence of power more visibly than a standing army.⁴⁰

Although ideally adapted to republican ideology, militias by their very nature were defensive organizations, incapable of waging the ever more complex and technologically sophisticated European practice of war. Thus in the aftermath of the Glorious Revolution, with England's religious future firmly secured in the Protestant camp, Englishmen came to accept the professionalization of their armed forces as long as these soldiers submitted to Parliamentary, rather than royal, supervision. Provided they campaigned on the continent or in the colonies, these soldiers posed little threat to English liberties, and the militia system, England's bulwark against tyranny, slipped quietly into decline. Militia musters became glorified village fairs with a martial veneer.⁴¹

In England's North American colonies, the trajectory was somewhat different.

⁴⁰ Dederer, *War in America*, 184; Cox, *A Proper Sense of Honor*, 7. On the influence of radical Whig and classical republican political thought on early modern England's defense policy and the institution of the militia see Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, MA: Harvard University Press, 1967), J.G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 1975), and Lois G. Schworer, *"No Standing Armies!": The Antiarmy Ideology in Seventeenth-century England* (Baltimore: Johns Hopkins University Press, 1974).

⁴¹ Dederer, *War in America*, 119, 187.

Although the deficiencies of a universal militia in offensive operations were manifest early on, the colonies individually lacked the resources necessary to maintain peacetime armies, and until the Seven Years' War, England failed to provide substantive numbers of regulars for colonial defense. Instead the colonies developed what John Dederer calls a "bifurcated militia system." The colonial militia came to resemble its English mother as primarily a social and political organization, while actual military service was performed by a select group of volunteers or draftees contractually recruited to serve for the duration of the conflict. Subjected to greater levels of military discipline than the militia, these volunteers, or provincial regulars as they were known, bore the brunt of colonial defense until the Seven Years' War when large numbers of British troops arrived in North America for the first time. Unlike Britain's red-coated regulars, provincials served only in times of crisis and scrupulously maintained the contractual nature of their employment with the colonial governments. Nevertheless, they were modeled on, and very often officered by, European professionals. Gradually European weapons, uniforms, drill manuals, and codes of conduct crossed the Atlantic and found expression in the colonial provincial regulars. These troops campaigned farther and farther away from the densely populated Atlantic coast as the threat from Native Americans receded into the North American hinterland. By the middle of the eighteenth century, defense had become someone else's problem for the majority of British Americans.⁴²

⁴²Dederer, *War in America*, 120-121. Fred Anderson has demonstrated that unlike European regulars, American provincial regulars were hardly the dregs of society, and were in fact respectable members of their community who scrupulously defended the contractual nature of their enlistment. These provincial regulars could be kept in the field for longer periods than the militia and were provided with a modicum of training and discipline, but they never matched the British regulars in terms of military proficiency and esprit de corps. Fred Anderson, *A People's Army: Massachusetts Soldiers and Society in the Seven Years' War* (Chapel Hill: University of North Carolina Press, 1984), 25. See also Harold E.

As British America developed from a perilous string of outposts and villages on the Atlantic coast into established colonies with claims to the interior of the continent, the threats facing the colonies changed as well. Colonial Americans began to see the Native Americans who opposed their progress not as foreign enemies but as domestic rebels and traitors. Those who had lived in peace with the colonists and later took to the warpath were seen as especially deserving of the rebel's fate. The Massachusetts Assembly passed a resolve in 1706 granting a reward and "the benefit of Plunder, and all Indian Women and Children Prisoners under 12 Years of Age" to every soldier "who shall Kill or Take Any Male Indian Enemy or Rebel...above the age of 12 Years." By labeling the Indians rebels, the assembly licensed and legitimized their destruction. The militiamen probably needed little added incentive to murder and maim a people they already considered savage and barbaric. When Abenaki war parties aided by the French raided the Connecticut frontier in 1722, Governor Samuel Shute did not call out the militia for the defense of the colony against an external threat, but instead declared the Abenaki "Rebels, Traitors, and Enemies to His Majesty King George" and required all loyal inhabitants of the colony "to do and Execute all Acts of Hostility upon them." If the Abenaki were to remain on their ancestral lands, their lives were forfeit. The Massachusetts Assembly offered £100 to anyone who produced an Abenaki scalp. Scores of New England men volunteered to give the Abenaki their just desserts. The

Selesky, *War and Society in Colonial Connecticut* (New Haven, Ct.: Yale University Press, 1990), ix-x. Despite the increased professionalization of the Provincials, they remained "notoriously expensive, inefficient, undisciplined, and ill-trained" according to Fred Anderson. Fred Anderson and Andrew R. L. Catton, *The Dominion of War: Empire and Liberty in North America* (New York: Viking, 2005), 162; Dederer, *War in America*, 123.

ensuing conflict, known as Father Rale's War, resulted in Massachusetts' acquisition of what is now Maine and the retreat of the Abenaki deeper into French-controlled lands.⁴³

By the turn of the century, it was clear to colonial Americans that France, in the form of her Canadian colonies, was an intractable barrier to their expansion and a looming threat to English liberty, freedom of commerce, and the Protestant faith. Unsurprisingly, as Britain and France vied for control of the balance of power in Europe, their colonists fought for supremacy in North America. In the series of imperial wars that erupted after 1689, Britain's American colonies were drawn ever further into the imperial fold and into the prevailing European culture of war, in part because the capture of Canada demanded more financial, logistical, and military resources than any one colony could provide. After numerous failed attempts to reduce the French colony by invasion, American colonists looked to Britain for aid.⁴⁴

Scholars of colonial America's consumer and political culture have observed an "Anglicization" of Britain's colonies in the century preceding the revolution, and this process was just as true for the practice of war as it was for commerce. American colonists embraced their countrymen's vision of a Protestant and British Atlantic world, and they accepted uncritically that such an empire would be won by force of arms. The paltry provincial forces that had wrested control of Louisbourg from the French in 1745 were no match for New France's reinforced garrison of regular troops commanded by an aggressive continental veteran, the Marquis de Montcalm, a decade later. From 1755 to 1757, the French pushed back successive Anglo-American invasion attempts, defeated

⁴³ *The Boston News-Letter*, August 12th to August 19th, 1706; "A Declaration Against the Eastern Indians" by Governor Samuel Shute. *The Boston News-Letter*, July 23rd -July 30th, 1722; Grenier, *The First Way of War*, 47-52.

⁴⁴ Selesky, *War and Society*, x.

several major British armies, captured numerous forts, and successfully invaded New York. By 1758, it was abundantly clear to colonial administrators, British generals, and the newly appointed secretary of state for the southern department, William Pitt, that only overwhelming numerical and logistical superiority would check French advances in North America.⁴⁵

In what Ian Steele has termed “a minor revolution in government,” Pitt succeeded in “Europeanizing” the contest for North America. He insured that the troops who fought the campaigns of 1758 and 1759 would be overwhelmingly British regulars, commanded by veterans of the European wars, and operating under the existent laws and customs of war. French prisoners of war were accorded the civilities due to their rank and station and were administered and provided for by the British military rather than their colonial counterparts. General Montcalm’s predecessor, the Baron Dieskau, who had fallen prisoner to William Johnson’s army in 1755, passed much of his captivity in the English resort town of Bath, where according to Lord Barrington he merited “a Claim to every Civility and assistance” from the town’s mayor. Although such luxuries were beyond the reach of the French enlisted men who fell into British hands, their imprisonment was no more severe than that of their counterparts captured in Europe.⁴⁶

⁴⁵ For the influence of the colonies' evolving commercial links with Great Britain on the consumer tastes and culture of British North America see T.H. Breen, *The Marketplace of Revolution: How Consumer Politics Shaped American Independence* (New York: Oxford University Press, 2004). For the influence of war on the development of a British Atlantic Protestant Identity see Linda Colley, *Britons: Forging the Nation, 1707-1837* (New Haven, Ct.: Yale University Press, 2009), 364-75. I am in agreement with Fred Anderson and Andrew Catton that the process of Anglicization during the eighteenth century resulted, at least in part, from “the relentless imperatives of imperial war.” Anderson and Catton, *The Dominion of War*, 141. Bailyn’s, *The Ideological Origins* remains the paramount account of the transmission of English radical Whig political culture to North America. Guy Chet has persuasively, if controversially, argued for the “transportation of English culture—military culture—to the frontier of European civilization in the seventeenth century. Chet, *Conquering the American Wilderness*, xv.

⁴⁶ Steele, *Warpaths*, 209; Lord Barrington to the Mayor of Bath, April 18th, 1757, WO/4/54, p. 3. National Archives of the United Kingdom, Kew, Surrey; Stephen Brumwell, *Redcoats: The British Soldier and War in the Americas, 1755-1763* (Cambridge: Cambridge University Press, 2002), 182.

The restraints of the European culture of war proved much more difficult to enforce when Native Americans were involved. Atrocities committed by both sides were uncomfortably common place. British and colonial American forces rarely took native warriors as prisoners. Nevertheless, the calculated mistreatment of captured French soldiers and sailors was never sanctioned by the British. Frenchmen, though Catholics and therefore perfidious, were Europeans and by extension, civilized. British military authorities in America assumed their French opponents operated under the same norms of conduct as themselves. When General Montcalm's Indian allies attacked a column of British and American troops that had surrendered Fort William Henry in 1757, the American press cried "massacre," and British generals deemed the convention violated and sent the surviving soldiers to the frontlines. The attack on the British troops, which cost the lives of as many as 185 British and American soldiers and civilians, highlighted alleged "Gallic Perfidy" in contrast to British humanity in the minds of Anglo-Americans. According to the customs of war in Europe, the surrendered redcoats were Montcalm's responsibility, and his inability to protect them soiled not only his personal honor but that of France's king and army.⁴⁷

Montcalm, who had not sanctioned the attack, was horrified. With his personal honor at stake, he worked tirelessly to ransom the survivors from their Native American captors and argued for the imprisonment of the warriors who had taken part. Paying as much as 130 *livres* and 30 bottles of brandy per prisoner, Montcalm succeeded in recovering most the English prisoners but not his reputation. When he perished on the

⁴⁷ The notable exception to this was the treatment of French Canadian colonists who "dressed like Indians," thus abrogating their claims to European civilization and the protections of European customs of war. See Brumwell, *Redcoats*, 184; New-Hampshire Gazette, August 26th, 1757; Ian K. Steele, *Betrayals: Fort William Henry and the Massacre* (New York: Oxford University Press, 1990), 149.

Plains of Abraham during the climactic battle for Quebec in 1759, the stain of the “massacre” remained. It was the memory of this event, compounded by other lesser outrages, which prompted General Jeffery Amherst to deny the last remaining French garrison in 1760 the honors of war. France’s troops in Montreal were unharmed and even transported home with their personal property unmolested, but they did so under the cloud of shame of an army that had violated the norms of acceptable practice in war. Amherst wanted justice for “the infamous part the troops of France had acted in exciting the savages to perpetrate the most horrid and unheard of barbarities in the whole progress of the war.” The French soldiers' inability to restrain their native allies negated their claim to an honorable defeat. They were forced to quit the garrison without their flags waving or drums beating. Rather than give up the colors of their proud regiments, the French burned them prior to surrendering themselves, and Canada, to the British. As he watched the French troops file out of the battlements in silence, Amherst was undoubtedly pleased that the conventions of European warfare had been maintained on the other side of the Atlantic, and the army that had held on to those standards most conscientiously had prevailed militarily as well.⁴⁸

American provincial soldiers like George Washington had stood shoulder-to-shoulder with British regulars in order to drive the French from the continent, and their conceptions of legitimate and illegitimate practices in war were profoundly shaped by this contact. Although many Americans were put off by the haughty airs and condescension of the crown’s officers, and by the coarse ways and unthinking submission of the rankers, the redcoats’ courage, discipline, and conduct in battle were never in

⁴⁸ Steele, *Betrayals*, 131 and Fred Anderson, *Crucible of War: The Seven Years' War and the Fate of Empire in British North America, 1754-1766* (New York: Vintage Books, 2000), 198-199; Jeffery Amherst to M. de la Pause quoted in Anderson, *Crucible of War*, 408.

question. For the American provincials who fought the French and Indian War, the British army was the paragon of military efficacy. In Washington's estimation, its prowess stemmed not merely from rote practice but also from careful study. In an age before the widespread foundation of military academies and training depots, soldiers learned their craft in the field with their regiments. Although a subaltern officer might learn much from a senior enlisted man, or from his fellows in the mess, by the second half of the eighteenth century a modicum of literacy in the history, theory, practice, and laws of war was expected of a young man entering the profession of arms.⁴⁹

This literacy could be obtained by reading both classic and contemporary European military treatises. As Ira Gruber has demonstrated, British officers favored the continental experts, of whom Vattel was one. Washington was not alone when he emulated his British colleagues by purchasing a copy of Turpin de Crissé's *Essay on the Art of War* in order to "obtain a small degree of knowledge in the Military Art." In 1756, Washington advised his regiment's major "in the strongest terms" of "the necessity of qualifying yourself by reading." Many American officers heeded Washington's advice and continued to devour European treatises on war well into the revolution. While pillaging an American officer's baggage, Hessian officer Johanan Ewald was shocked "to see how every wretched knapsack, in which were only a few shirts and a pair of torn breeches, would be filled up with military books." These books, primarily penned by

⁴⁹ While numerous scholars have demonstrated that the provincials and their British allies who fought the Seven Years War successfully adapted much of their tactics, logistics, and even dress to the conditions of wilderness warfare, American conceptions of legitimate and illegitimate practices in war were profoundly European. For the British army's adaptations to the geography, topography, and ecology of North America as well as practices of Indian war see Brumwell, *Redcoats*. I am in agreement with Ira Gruber who eloquently summarized revolutionary Americans' prevailing understanding of war: "George Washington and other American commanders had come to understand warfare through British eyes." Gruber, *Books and the British Army*, 51, 23-34; Anderson, *A People's Army*, 116. According to Fred Anderson, "The distaste of provincials for haughty regulars runs like a litany through officers' diaries" during the Seven Years' War. Anderson, *A People's Army*, 113, 117.

French and German authors, were translated into English so that those not fluent in French, as indeed Washington himself was not, could benefit from their insights. Ewald was tremendously impressed with American officers' literary preferences, and he favorably compared the officers of the American army who "studied the art of war while in camp" to those of their opponents who preferred to divert themselves with "some novels or stage plays."⁵⁰

Nevertheless, the British were not devoid of learned students of the theory and practice of war in the eighteenth century. The work of one such authority, Lieutenant Colonel James Anderson's 1761 *Essay on the Art of War*, found its way into Washington's library. Although much of Anderson's essay concerns tactics, operations, and a lengthy discourse on the Roman militia, Anderson was very clear on how prisoners of war should be treated in contemporary conflict. "As the Chance of War is uncertain, Politics as well as Humanity oblige the different Powers to treat the *Prisoners of War* on both Sides with Gentleness." In his estimation, it was the commanding general's responsibility to "comfort the Officers who are taken, and furnish them with whatever is necessary." In order to accomplish this humane and politically savvy project, Anderson advised that a cartel be established between the belligerent powers so that "Officers and Soldiers are exchanged against each other according to their Rank." These men were not

⁵⁰ For late eighteenth-century British officers' taste for French military books see Gruber, *Books and the British Army*. Although not widely represented, at least one of the 42 officers Gruber studied owned a copy of Vattel's *The Law of Nations*. Hugh Grotius's *The Laws of War* was owned by 19% of his sample. Gruber, *Books and the British Army*, 227, 180; Washington to Robert Orme, March 15th, 1755. *PGW*. For Washington and other American officers' reading preferences during the Seven Years' War and the Revolutionary War see Sandra L. Powers, "Studying the Art of War: Military Books Known to American Officers and Their French Counterparts during the Second Half of the Eighteenth Century," *The Journal of Military History*, Vol. 70, No. 3 (Jul., 2006), 781-814. And Oliver L. Spaulding, Jr., "The Military Studies of George Washington," *The American Historical Review*, Vol. 29, No. 4 (Jul., 1924), 675-680; Washington to Major Andrew Lewis. Fort Loudon, May 21st, 1758. *PGW*; Johann Ewald, *Belehrungen iiber den Krieg*. Quoted in Powers, "Studying the Art of War." 791.

only valuable commodities of exchange; they were also “visible Marks of Victory.” A prudent general “ought to spare Blood, as it is much more glorious to make Prisoners...than to massacre Soldiers who surrender.” On these points, Anderson was merely repeating and reflecting the prevailing European sentiment, but it was a sentiment with which Washington likely agreed.⁵¹

When Washington was called upon by the Second Continental Congress to command the army at Cambridge for the defense of the colonies in 1775, he left his British uniform at home, but he brought with him an understanding of "civilized" war, and how it should be conducted, that was entirely derived from his experience with the British army and his exposure to contemporary European military culture. Many of the officers he found commanding the New Englanders had been provincial soldiers in the last war, and while most had probably not studied Vattel or Grotius, they were products of a culture that understood war in only two ways: restrained and thus “civilized” or unbridled and therefore “savage.” The bloody religious and Indian wars of the seventeenth century were a distant memory. In taking up arms to defend their British liberties from ministerial tyranny, elite Americans envisioned that the ensuing contest would be polite, restrained, humane, and above all, civilized. They were mistaken.⁵²

⁵¹ The Library of Congress has compiled a list of all known military manuals that George Washington owned. See Virginia Steele Wood, "George Washington's Military Manuals," accessed September 3rd, 2012, http://www.loc.gov/rr/genealogy/bib_guid/WashingtonMilitaryManuals.pdf; James Anderson, *Essay on the Art of War: In which the General Principles of All the Operations of War in the Field are Fully Explained: The Whole Collected from the Opinions of the Best Authors* (London: A. Miller, 1761), 206-7, 518, 576.

⁵² Washington did, however, appear in the blue and buff uniform of the Fairfax Virginia Independent Company, the only member of the Congress to arrive in uniform. See Anderson, *The Dominion of War*, 157. Legal historian John Fabian Witt has recently called Washington "the living embodiment of the Enlightenment way of war." Witt, *Lincoln's Code*, 19. When the imperial crisis began to escalate during the early 1770s, many Americans took to their books to study the art and practice of war in Europe. Several of the men who would become Washington's principal commanders were well schooled in European warfare. Take for example William Heath. A man who before April 19th, 1775 had never seen a shot fired in anger, and who would go on to play a pivotal role in the management of British prisoners

“The Sword is now drawn”: Prisoner Treatment at Lexington, Concord, Bunker Hill, April-June, 1775

Josiah Smith, a wealthy merchant from South Carolina, was no soldier. Like most elite colonial Americans, he had never seen a shot fired in anger when he received news of the fighting at Lexington and Concord. Wars were distant and peripheral in his imagination; they were fought in Europe, on the frontier, in Canada, or the West Indies. As a savvy man of business, he was aware that wars held the potential for both financial windfall and bankruptcy, but they posed no immediate threat to his personal safety. Even though the colony of South Carolina required his participation in militia training, as a man of means, there was never any real likelihood of his being sent on campaign. All of the colonies had long ago crafted a military system that spared their more established and financially secure citizens the obligations of actually fighting. When war had last erupted on the frontier in 1754, Smith and his peers in Charleston’s elite society never left the comforts of home. Instead, colonial authorities raised regiments of provincial regulars from among the landless and itinerant youth of the colony. In conjunction with independent companies of British regulars, these South Carolina provincials protected the colony and ensured that men like Smith never knew the horrors of war. The years since the expulsion of the French from Canada and the subordination of the western tribes to

during the war, Heath was an assiduous reader of European military texts. He even published his own series of articles in Massachusetts newspapers under the pseudonym, "a military countryman." See *Memoirs of Major-General William Heath by Himself*, William Abbatt, ed., (New York, 1901), 3. Nathaniel Greene and Henry Knox, both avid bibliophiles, were well known and admired for their erudition in the art of war. See David Hackett Fischer, *Paul Revere's Ride* (Oxford: Oxford University Press, 1994), 247.

British rule had been peaceful. Smith and his contemporaries on the western banks of the Atlantic were largely unprepared for news of the events of April 19, 1775.⁵³

Although for an eighteenth-century South Carolinian, Boston must have seemed very far away, the outbreak of combat so near a major colonial port city struck Smith as too close to home. In his estimation, the British soldiers who fired on the men of Massachusetts had “committed most horrid Barbarities,” which “caused the boiling of much blood” among Charlestonians. By attacking American militiamen who were merely attempting to defend their hearth and home, the British troops had violated Smith’s conception of acceptable and legitimate conduct in warfare. Smith was not alone in his astonishment and rancor. Embellished accounts of British grenadiers firing on unarmed men, abusing women and children, and dispatching the wounded at the point of the bayonet permeated the press throughout the colonies in the aftermath of the battle. Conjuring images of the bodily mutilation practiced by Native Americans during the Seven Years’ War, *The Massachusetts Spy* reported an account of “the savage barbarity exercised upon the bodies of our unfortunate brethren who fell.” For the author, these atrocities strained credulity. That British soldiers could be guilty of “shooting down the unarmed, aged and infirm” and “mangling their bodies in the most shocking manner” was quite literally “incredible.” In the days after the battle, real atrocities were magnified and exaggerated by propagandists to elicit the ire of the populace. Israel Putnam, a veteran of the Seven Years’ War and one of the premier soldiers in the colony, claimed the British

⁵³ Josiah Smith Letter Book, 1771-1784. Collection Number: 03018. The Southern Historical Collection. The Louis Round Wilson Special Collections Library. The University of North Carolina. Chapel Hill, N.C. Harold Selesky has observed a similar development in colonial Connecticut: “War came to be seen primarily as an economic activity rather than as a fight for physical, political, or religious survival.” Selesky, *War and Society*, 67. For an analysis of the raising of provincial regulars in Massachusetts see Anderson, *A People’s Army*. For the best narrative account of the battles of Lexington and Concord see Fischer, *Paul Revere’s Ride*.

troops “behaved in a very cruel and barbarous Manner; going into Houses and killing sick People...putting the Muzzle of the Gun into their mouths and blowing their Heads in Pieces. Some Children had their Brains beat out!” These titillating accounts had the desired effect. The reported conduct of the king’s troops on that April morning was confirmation enough for thousands of Americans of the corruption of the British ministry and the degradation of the British constitution. Along the eastern seaboard, Americans of varying ethnic, religious, and political backgrounds confronted the reality that “The Sword is now drawn.” By June of 1775, Smith could report with pride “that a very martial Spirit now reigns among Persons of all Ranks here.”⁵⁴

When the British column returned to Boston on the evening of April 19th, they had lost 273 men killed, wounded, or captured. Three days later, Lieutenant General Gage wrote Britain’s Secretary at War, Lord Barrington, reporting on the events of that day. In his estimation, the conflict was “nothing to trouble your Lordship.” There had been a small skirmish in which the king’s troops had “behaved with their usual Intrepidity.” Gage was perplexed by the vitriolic accounts inundating the American press

⁵⁴ Josiah Smith to James Poyas. Charleston, S.C. May 18th. 1775. Josiah Smith Letter Book. Wilson Special Collections Library. The University of North Carolina. Chapel Hill, N.C. This dissertation emphasizes the importance of print in the dissemination of accounts of British atrocities and argues that these accounts eroded over time Americans' conventional understanding of limited and restrained war, thereby encouraging acts of retaliatory vengeance. While I agree with Trish Loughran that Americans in 1775 lived "in a world still largely dominated by the limits of locale", and thus were incapable of creating a "'nationalized' print public sphere," Loughran ignores the influence of the Revolutionary War on print circulation. Accounts of enemy operations and actions circulated widely during the war, and I contend, much like Jill Lepore's *The Name of War*, that the war of words influenced behavior in the war on the ground. Trish Loughran, *The Republic in Print: Print Culture in the Age of U.S. Nation Building, 1770-1870* (New York: Columbia University Press, 2007), xix; *The Massachusetts Spy: Or, American Oracle of Liberty*, May 3rd, 1775; Letter of Israel Putnam. Cambridge, April 22nd, 1775. Printed in *The Norwich Packet*, April 20th- 27th, 1775. On April 26th, 1775, the Provincial Assembly of Massachusetts published a resolve condemning the actions of the British troops at Lexington and Concord: “To give a particular account of the ravages of the troops, as they retreated from Concord to Charles Town, would be very difficult, if not impracticable; let it suffice to say, that a great number would disgrace the annals of the most uncivilized nations. These, brethren, are the marks of ministerial vengeance against this colony, for refusing, with her sister colonies, a submission to slavery.” *The Remembrancer, or Impartial Repository of Public Events* (London: J. Almon, 1775), 3; *The New-Hampshire Gazette*, April 21st, 1775; Josiah Smith to George Appleby, June 16th, 1775. Josiah Smith Letter Book. Wilson Library. University of North Carolina.

of his troops' conduct. In another letter to Barrington, Gage complained that the Americans had “Published the most false and inflammatory Accounts of the Skirmish on the 19th.” Exaggerated though they certainly were, there was some truth to the accounts of barbarity. The British troops and their officers were unprepared for armed opposition and most had never seen combat before. In the chaos that ensued, these inexperienced soldiers often denied quarter to surrendering Americans. While some American militiamen were undoubtedly less than restrained as well, descriptions of American atrocities were few. One American newspaper boasted “that notwithstanding the highest provocations given by the enemy, not one instance of cruelty that we have heard of was committed by our Militia; but, listening to the merciful dictates of the Christian religion, they breathed higher sentiments of humanity.”⁵⁵

While the revolutionary press was pleased to congratulate the militia for its restraint and to demonize the crown forces, the reality of the situation was that confusion and disorganization better characterized the Americans than piety or humanity. Throughout the day, hordes of militiamen poured into the fighting from around the countryside with little sense of order or control. No individual American officer possessed the authority and gravitas necessary to take command of the offensive operations, much less to restrain the men or give instructions for the care and treatment of captured enemy soldiers. During the British retreat from Concord, a group of American militiamen captured the son of a man known to be sympathetic to the British government. Accusing him of guiding the redcoats to the town, the men first arrested the boy before

⁵⁵ Gage to Barrington, April 22nd, 1775. Boston. Clarence E. Carter, ed., *The Correspondence of General Gage* (New Haven: Yale University Press, 1931-3), 2 vols., 2:673-4; Gage to Barrington, May 13th, 1775. Boston. Carter, ed., *The Correspondence of General Gage*, 2: 678. During the retreat from Concord, Lt. Col. Smith lost command and control of his column. He and his officers did little to restrain their men. See Middlekauff, *The Glorious Cause*, 278-9; *Connecticut Courant*, May 8th, 1775.

shooting him when he attempted escape. According to one Connecticut whig, his was “a death too honourable for such a villain!” This boy's well known status within the community as a loyalist made him an easy target for those bent on revenge. Other prisoners, protected by the legitimacy of their scarlet uniforms, fared better. Lieutenant Edward Gould of the 4th Regiment of Foot, who was wounded at the Concord bridge, reported that he was “treated with the greatest humanity, and taken all possible care of by the provincials at Medford.” A similar sentiment was expressed by the wife of a captured private soldier in a letter to her siblings in England. She reported that “my husband was wounded and taken prisoner, but they use him well.” The Americans brought this wounded Briton, whose leg was broken, to a hospital in Cambridge.⁵⁶

The future for unscathed prisoners was much less certain. In the days following the battle, militiamen struggled with how to treat their new captives. Who was responsible for these men? Where could they be confined? Were they prisoners of war? Was this even a war? Captain James Reed of Burlington arrived in Lexington after the main column of British troops had already moved on to Concord. Upon his arrival, he discovered a lone redcoat—likely a deserter or shirker in search of plunder—who with the assistance of a Woburn man, he made prisoner. After seizing his arms and ammunition, Reed marched the soldier back to his own home. Word spread that Reed was guarding a British prisoner and soon thereafter several of his neighbors handed off their captured charges to his care. By afternoon, Reed had 9 or 10 redcoats under guard. According to Reed, “Towards evening, it was thought best to remove them from my

⁵⁶ "Letter from Weathersfield, in Connecticut, to a Gentleman in New-York." April 23rd, 1775. Peter Force, *American Archives* (Washington, D.C., 1937-53), 9 vols., 4th series, 2:362; "Deposition of Lieutenant Edward Thornton Gould. Medford, Massachusetts," April 25th, 1775. *The Remembrancer* (1775), 38; "Extract from an intercepted letter of the Soldiery in Boston." May 2nd, 1775. Force, *American Archives*, 4th series, 2:441.

house,” and with the assistance of his comrades Reed marched the party of redcoats to Billerica and then to Chelmsford. The sight of captured British soldiers “much frightened” the townspeople, and Reed was hard pressed to pass off responsibility for the men. Eventually, he was able to persuade the Committee of Safety of Chelmsford to take the prisoners provided that his militia company left a guard for their security.⁵⁷

Reed’s experience was likely the norm, as no one was expecting to fight that day; there certainly had been no plan or provision provided for what might happen if British soldiers fell into American hands. Unsurprisingly, British prisoners were dispersed throughout Massachusetts: some in jails, others barns, and the lucky ones, in private domiciles. Realizing the importance of having British prisoners, John Hancock frantically wrote the Massachusetts Committee of Safety demanding to know, “what has taken place, and what your plan is; what prisoners we have, and what they have of ours.” The committee did not have an answer. Within days, however, the impropriety of holding British prisoners so close to a major British garrison dawned on the committee and on the 26th they ordered the fifteen prisoners held in Concord to be taken to the jail at Worcester and delivered to the care of Mr. Ephraim Jones, Jail-keeper. The committee turned over one of these prisoners, who was by trade a paper-maker, to Mr. Boyce to work in his mills: a confinement likely more comfortable than the Worcester jail. Even those who remained in confinement did not complain about their treatment. Reverend William Gordon of Roxbury, a man whose loyalties lay firmly with his king and Parliament, wrote to a friend in England, “The prisoners at *Worcester, Concord, and Lexington*, all agreed in their being exceedingly well used. The policy of the people

⁵⁷ Samuel Adams Drake, *History of Middlesex County, Massachusetts, Containing Carefully Prepared Histories of Every City and Town in the County* (Boston: Estes and Lauriat, 1880), 2 vols., 1:302.

would determine them thereto, if their humanity did not." Gordon, who had no reason to congratulate men he considered rebels, attributed the prisoners' good treatment to sound judgment on the part of the Americans in arms. In his mind, the sins of April 19th were reversible if the sinners begged forgiveness. The king, in all his benevolent majesty, was merciful. Mistreating the king's soldiers would only serve to add insult to injury and ensure the king's wrath.⁵⁸

Exactly how many British prisoners were captured that day remains something of a mystery. The Provincial Council appointed Mr. Dix, Dr. Taylor, and Mr. Bullen as a committee "to inquire into the conduct of the several Towns relative to the prisoners," but their report has not come to light. Israel Putnam's statement that "70 or 80" men were taken was almost certainly too optimistic. Years later, American militia officer William Heath recalled the capture of 28 British prisoners. In the immediate aftermath of the battle, General Gage reported 24 of his men missing, at least fifteen of whom were the prisoners transferred from Concord to Worcester.⁵⁹

Gage's troops had captured some American prisoners as well. According to Lieutenant Frederick Mackenzie, the British had "about ten prisoners, some of whom were taken in arms. One or two more were killed on the march while prisoners by the fire of their own people." When Gage wrote Barrington in early May, he noted "Five or

⁵⁸ John Hancock to the Massachusetts Committee of Safety. Worcester, April 24th, 1775. Force, *American Archives*, 4th series, 2:384; Resolutions of the Massachusetts Committee of Safety, Cambridge, April 26th, 1775. Force, *American Archives*, 4th series, 2:746. When Boyce refused to pay for the prisoner's transportation, the committee ordered the prisoner removed and returned to their custody. The Committee of Safety of Massachusetts to Mr. Vose. Cambridge, May 2nd, 1775. Force, *American Archives*, 4th series 2:474; "Account of the commencement of hostilities between Great Britain and America, in the Province of Massachusetts-Bay, by the Reverend Mr. William Gordon, of Roxbury, in a Letter to a Gentleman in England." Force, *American Archives*, 4th series, 2:625.

⁵⁹ Proceedings of the Massachusetts Provincial Council. April 30th, 1775; Force, *American Archives*, 4th series, 2:776; Israel Putnam to the Committee of New-London and Lyme. Cambridge, April 22nd, 1775. Printed in *Norwich Packet*, April 22nd, 1775; Almon, *The Remembrancer* (1775), 41.

Six Prisoners taken in Arms.” The captured Americans, or provincials as the British called them, were transferred to a British warship in Boston harbor to await their fate. The Provincial Congress of Massachusetts immediately began contriving a method to obtain their release. A committee of the congress that had been appointed to consider the issue recommended that an appeal be "sent to General *Gage*, signed by the wives or nearest relations of such prisoners," in the hopes that the general, whose own wife was an American, might be coaxed into releasing the men. Gage was unsure of how to respond; he knew that he could do nothing that might be seen to legitimize the resistance movement. While he attempted to sort matters out, the men remained in custody.⁶⁰

Although firing on the king’s troops, no matter how provoked, was unquestionably an act of rebellion, both the British and the Americans were hesitant to use the term rebel in the immediate aftermath of the battle. They knew too well the consequences of applying that term to his majesty’s subjects in America. From the American perspective, their quarrel was not with the king, but with his ministers and Parliament. They had taken up arms in his name to defend their customary British liberties. The British leadership in America was equally reticent. General Gage, who presumed resistance was isolated to New England, did not want to exacerbate the situation by labeling it a rebellion. According to former royal governor of Massachusetts, and friend to America, Thomas Pownall, “General Gage...does not call the Americans *Rebels*.” Despite many of his officers' strongest suggestions, Gage refused to declare

⁶⁰ Undoubtedly, those unfortunate men were not the only to fall to friendly fire that day. Frederick Mackenzie, *Diary of Frederick Mackenzie: Giving a Daily Narrative of His Military Service as an Officer of the Regiment of Royal Welch Fusiliers During the Years 1775-1781 in Massachusetts, Rhode Island, and New York* (Cambridge: Harvard University Press, 1930), 2 vols., 1:42; Gage to Barrington, May 13th, 1775. Boston. Carter, ed., *The Correspondence of General Gage*, 2:678; "Report of Committee on liberating Prisoners taken by Gen. Gage, the 19th of April, (Note) Resolve on the same subject." Watertown, Massachusetts. May 3rd, 1775. Force, *American Archives*, 4th series, 2:784.

martial law and forbade his troops from firing on the American provincials who encircled Boston effectively besieging the town.⁶¹

Gage even agreed to an exchange of prisoners. On June 6th, American generals Israel Putnam and Dr. Joseph Warren met with British Major Thomas Moncrief [*sic*] for the purpose of exchanging some of the men who had been captured on April 19th. The Americans were accompanied by Captain Chester's company of Weathersfield, Connecticut militiamen, who were the only troops in the American forces besieging Boston to possess a uniform set of clothing, arms, and accoutrements. In an effort to display to British onlookers their martial mastery, and by extension the legitimacy of their cause, the Americans paraded through the town of Charlestown "marching slowly through it." Once arrived at the designated site of exchange, the ritual that followed looked much the same as those carried out in Flanders during the last European war. According to an article in the *Norwich Packet*, "The meeting was truly cordial and affectionate." After the exchange of private soldiers had taken place, "Major Moncrief, and the other officers returned with General Putnam and Dr. Warren, to the house of Dr. Foster, where an entertainment was provided for them." Moncrief and Putnam had been friends prior to the conflict, and neither man saw the commencement of hostilities as reason to give up good cheer and convivial company. Both men shared the same vision of how war should be conducted: violence was restricted to the battlefield, prisoners were well cared for, officers afforded each other the courtesy due to their military and social rank, and parlays and truces were meticulously upheld. The author of the article proudly reported, "The whole was conducted with the utmost decency and good humor; and the

⁶¹ Thomas Pownall assisted Almon in compiling the documents in Almon's *Remembrancer*. *The Remembrancer* (1775), 42; Fischer, *Paul Revere's Ride*, 265.

Weathersfield Company did honor to themselves, their officers, and their country." If the American author is to be believed, the British concurred: "Those who had been prisoners politely acknowledged the genteel, kind treatment they had received from their captors." As the HMS *Lively* carried the newly liberated Britons back to Boston, all concerned would have agreed that the coming contest would be fought with moderation and humanity.⁶²

Still, the seeds of a shift in British thinking had already been planted. When news of the battles of Lexington and Concord reached England, most were in disbelief. Domestic opinion in Britain was highly divided on how best to proceed. People in the peripheries of Britain—Northern England, Scotland, and Wales—tended to see the actions of April 19 as nothing short of rebellion and treason, while central and southern Englishmen largely favored reconciliation. Some newspapers described the violence at Lexington as a "squabble" and spoke of Americans as "our oppressed Brethren on the other Side of the Atlantic." For the hardliners, on the other hand, the insurrection in Massachusetts was just another in a long series of rebellions in British history that had been successfully suppressed by the proper application of force. One Tory correspondent hoped that the British generals in America would "adopt the principles of the late Duke of Cumberland, which, with a few of the Prime Rebel Heads...will have an admirable effect in again reducing those worst kind of Traitors to Reason." Executing the rebellion's

⁶² Drake, *History of Middlesex County*, 1:134. This exchange took place on an equal basis, without regard to military rank, social standing, or race. The nine British prisoners included three officers, one of which was of field rank, and six enlisted men, while the Americans were all civilians. The Britons were: Major Dunbar, Lieutenant Hamilton, Lieutenant Potter, John Hilton, Alexander Campbell, John Tyne, Samuel Marcy, Thomas Parry, and Thomas Sharp. They were exchanged for Americans John Peck, James Hews, James Brewer, Daniel Preston, Samuel Frost, Seth Russell, Joseph Bell, Elijah Seaver, and Caesar Augustus, "a negro servant of Mr. Tileston, of Dorchester." *Norwich Packet*, June 8th-15th, 1775. This same article appears in numerous publications including the *Connecticut Gazette*, the *Pennsylvania Evening Post*, and the *New-York Gazette*.

leadership had been a successful tactic of Cumberland's in 1746. Some went so far as to suggest that all rebels deserved to suffer death. In the opinion of the English author writing under the pseudonym "Politicus," the people of Massachusetts were "rebel vermin" whose actions would "consign them to the gallows whenever they are taken." This was the constituency to whom Lord North and his advisors listened. Under English law, the Americans were rebels; firing on the king's troops was tantamount to firing on the king himself.⁶³

On June 12th, facing mounting pressure, Gage declared the colony of Massachusetts in a state of "avowed Rebellion," proclaimed martial law, and began arresting "Rebels and Traitors." To Americans who believed they had taken up arms in self defense, the appellation "rebel" sat uneasily. They were well aware that the title was accompanied by the certain prospect of the hangman's noose. Pennsylvania delegate to the Continental Congress John Morton wrote to a friend in London early in June expressing his concern that the British had "declared the New England People Rebels...this putting the Halter about our Necks." He declared that "we may as well die by the Sword as be hang'd like Rebels." John Leach, an English seaman then living in Boston, shared Morton's resilient defiance when Gage's officers came to arrest him on

⁶³ For a sense of the extent of this disbelief see the *General Evening Post*: "Observations on the Skirmish near Boston with a state of Facts" on May 30th, 1775. The author questioned, "Will any man embued [*sic*] with common sense believe, that 150 New-England militia defeated eight or nine hundred regular troops?" He concluded: "When the facts are published, it will appear that Colonel Smith was detached to seize some arms and carriages collected at Concord; that in the execution of his orders he was attacked by a large body of the rebels....that the rebels were defeated." *General Evening Post* (London, England), May 30th - June 1st, 1775; Colley, *Britons*, 137-45. For discussion of British popular response to the American Revolution see also Eliga H. Gould, *The Persistence of Empire: British Political Culture in the Age of the American Revolution* (Chapel Hill: The University of North Carolina Press, 2000) Chapter 5; *Morning Chronicle and London Advertiser* (London, England), June 2nd, 1775, Issue 1881; Colley, *Britons*, 138. The author of this piece was sympathetic to the Americans, but he quoted a correspondent who favored applying the lessons of suppressing the Jacobite Rebellion of 1745 to the rebellion in America. *Morning Chronicle and London Advertiser* (London, England), June 2nd, 1775. See for example, *General Evening Post* (London, England), May 30th- June 1, 1775, and *St. James's Chronicle or the British Evening Post* (London, England), June 3rd - June 6th, 1775.

June 29th. Accused of being a spy, Leach spent ninety-seven days in a filthy prison cell alongside future Continental Congressman James Lowell and three others. According to Leach, the American prisoners were "very close confined." Anyone who openly challenged royal authority or questioned Gage's actions could expect a similar fate. Seeing the power of print to advance the rebel cause, Gage ordered the arrest of Peter Edes, the son of *Boston Gazette* publisher Benjamin Edes, to guarantee the cooperation of his more illustrious father. Imprisoned with Leach, Edes recorded that the prisoners were "daily treated with Fresh insults and abuses."⁶⁴

Militiamen soon joined their civilian counterparts in Boston's jail. In the aftermath of the Battle of Bunker Hill on June 17th, the jail was flooded with American prisoners. The battle's wounded suffered grievously and received little medical attention. The "lucky" few that did receive the ministrations of a British surgeon fared little better. Edes claimed that "not one survived amputation." Those who escaped injury had to contend with the cruel hand of the British Provost officer, who used their status as "Damned Rebel[s]" to justify his sadism. American soldiers suffered a more rigorous confinement than their civilian compatriots. A corporal named Walter Cruise was kept "close confined, and allowed nothing but bread in water" in the jail's dungeon.

Americans everywhere were outraged. In a letter to a British prisoner held in Philadelphia, Joseph Reed expressed his contempt for the conditions of confinement in

⁶⁴ Gage's proclamation was published widely, including in the *Pennsylvania Packet*, the *Newport Mercury*, the *Connecticut Gazette*, and the *Massachusetts Spy*. I have quoted from the *Essex Gazette*, June 8th—June 15th, 1775; John Morton to Thomas Powell. Philadelphia, June 8th, 1775. Edmund Cody Burnett, ed., *Letters of Members of the Continental Congress* (Washington, D.C.: The Carnegie Institution of Washington, 1921-1936), 8 vols., 1:114. Information about John Leach and his ordeal can be found in *Ex Libris* (Washington, D.C.: The American Bookplate Society, 1897), Vol. I, 20-7; "A Journal Kept by John Leach," *The New England Historical and Genealogical Register*, 257; Journal of Peter Edes. Boston Gaol. August 11th, 1775. Samuel Lane Boardman, ed., *Peter Edes: Pioneer Printer in Main, A Biography* (Bangor, ME: 1901), 100.

Boston: "General Gage's Treatment of our Officers even of the most respectable Rank would justify a severe Retaliation—They have perished in a common Goal under the Hands of a Wretch." While prisoners died from the neglect or malpractice of surgeons "never before...employ'd but in the Diseases of Horses," the Provost regularly indulged his caprice by humiliating the prisoners. On one occasion, he forced a prisoner to "get down on his knees in the yard and say, God bless the King" before locking him in the solitary confinement of the "dungeon." Denied the status of either civil or military prisoners, captive Americans endured constant privation and abuse at the hands of their captors. As soon as Americans became rebels in the eyes of the British, they lost any claim to humane treatment. His majesty's officers and soldiers had been killed and captured by the rebels. Retribution was required. By August, Gage conceded to Barrington that "The Dye is Cast." All that remained was for Britannia to "exert her Force." Much to Gage's surprise, it was American militiamen, not British regulars, who struck the first offensive blow.⁶⁵

"Pleasure unfelt before": The Capture of the Garrison of Fort Ticonderoga

In 1775, Captain William Delaplace of His Majesty's 26th Regiment of Foot had the unenviable responsibility of defending a peacetime frontier fort on New York's Lake George. His enthusiasm for independent command would quickly have been subsumed by the tedium of an isolated post far from the comparative urban luxuries of Boston, New York, or Philadelphia. Despite the garrison's distance from the metropole, military

⁶⁵ Journal of Peter Edes. August 19th, 1775. Boardman, ed., *Peter Edes*, 10; "A Journal Kept by John Leach," *The New England Historical and Genealogical Register*, 258; Journal of Peter Edes. August 1st, 1775. Boardman, ed., *Peter Edes*, 99; Joseph Reed to Major Christopher French. September 3rd, 1775 *PGW*; Journal of Peter Edes, August 9th, 1775. Boardman, ed., *Peter Edes*, 99; Gage to Barrington, August 19th, 1775. Boston. Carter, ed., *The Correspondence of General Gage*, 2:696.

custom and English societal norms combined to ensure that Delaplace's only companion was his lieutenant, Jocelyn Feltham. Delaplace was utterly isolated from the social world of Fort Ticonderoga's forty-eight man garrison. With no impending French or Indian threat, these men soon fell into the routine of maintenance: cooking, cleaning, and mending. Manual exercise and other martial activities took a backseat to the more pressing concern of surviving on the frontier.⁶⁶

It is little wonder, then, that only a lone sentry stood his post at the fort's gate when Ethan Allen, Benedict Arnold, and a party of Allen's Green Mountain Boys arrived at the fort near dawn on May 10th, 1775. As the Americans approached, the sentry's musket misfired, but his cries succeeded in rousing the garrison. It was too late. Allen and Arnold rushed into the parade ground and up a set of stairs to the officers' quarters. There they found the partially clothed Feltham and demanded his surrender. Not having heard of the events near Boston, the lieutenant demanded to know on whose authority the fort had been taken. Allen responded, "In the name of the great Jehovah and the Continental Congress." According to a letter published in the *Essex Gazette*, Delaplace asked that he and his men be "treated with Honour." Aware of the rigorous confinement of American prisoners in Boston, one of Allen's men rejoined that the captain "should be treated with much more Honour than our People had met with from the British Troops."

⁶⁶ According to Allen, at the time of the fort's capture, the garrison consisted of 44 rank and file of the 26th foot, 2 sergeants, a conductor of artillery, a gunner, and two officers. Ethan Allen, *A Narrative of Colonel Ethan Allen's Captivity* (Boston: Draper and Folsom, 1779), 3-4. The Library Company of Philadelphia. ESTC W013736. Christopher Ward described Fort Ticonderoga in 1775 as "more like a backwoods village than a fort." Ward, *The War of the Revolution*, 69. For the best study of life in a frontier fort during the years of peace between 1763 and 1775 see Michael N. McConnell, *Army & Empire: British Soldiers on the American Frontier, 1758-1775* (Lincoln: University of Nebraska, 2004).

Upon hearing this and seeing that resistance was futile, Captain Delaplace surrendered his sword to Allen.⁶⁷

The ritual of surrender continued as it might have in Europe. The men of the 26th Foot laid down their arms, and the king's colors were lowered from the fort's walls so that they might be sent to the Continental Congress as a trophy of war. With the elation of victory still running high the next day, Allen dashed off a missive to the Massachusetts Congress in which he confessed that in capturing the fort he experienced a "pleasure never felt before." Allen was rightly pleased with his accomplishment, and he was particularly proud of the manner in which it had been achieved. As a man on the fringe of the law who lacked any formal military training, it was of vital importance that he and his men scrupulously uphold the conventions of European warfare. Through his treatment of Captain Delaplace and his men, Allen not only reinforced his personal claim to officer's rank and status, but also Congress's assertion of political legitimacy. Unlike the Marquis de Montcalm, who had been incapable of protecting his British and American prisoners during the last war, Allen had restrained his men and guaranteed the safety of their captives. He would later claim in a letter to British General Prescott, "I treated them with every mark of friendship and generosity, the evidence of which is notorious, even in *Canada*."⁶⁸

⁶⁷ Allen, *A Narrative of Colonel Ethan Allen's Captivity*, 3-4. See also, Michael A. Bellesiles, *Revolutionary Outlaws: Ethan Allen and the Struggle for Independence on the Early American Frontier* (Charlottesville: University of Virginia Press, 1993), 118; *The Essex Gazette*, May 12th-18th, 1775.

⁶⁸ Ethan Allen to the Massachusetts Congress. Ticonderoga, May 11th, 1775. John J. Duffy, Ralph H. Orth, J. Kevin Graffagnio, and Michael A. Bellesiles, eds., *Ethan Allen and His Kin: Correspondence, 1772-1819* (Hanover: University Press of New England, 1998), 2 vols., 1:21; Colonel Ethan Allen to General Prescott. September 25th, 1775. Force, *American Archives*, 4th series, 3:802. For this paragraph, I have relied heavily on Bellesiles, *Revolutionary Outlaws*, 116-18. See also Ward, *The War of the Revolution*, 63-70.

Captain Delaplace and his company did not share Allen's enthusiasm. Their captors were not professional soldiers; few of Allen's men had uniforms and most were hardened and coarse veterans of border disputes with New York. Allen admitted that his men had behaved "with restless fury" and "uncommon rancour," which "terrified the King's Troops." Yet the Green Mountain Boys did not put the garrison to the sword. Victory had been achieved without the loss of a single life on either side. The Americans now possessed fifty enemy prisoners who could be used as political leverage to extract more favorable treatment of Americans held prisoner in Boston. Writing to Connecticut's governor Jonathan Trumbull, Allen boasted, "I make You a Present of a Major a Captain and Two Lieuts [*sic*] in the regular Establishment of George the Third. I do hope they may serve as ransoms for some of our Friends at Boston." Without delay, Allen dispatched Delaplace's men to Connecticut, where they could be securely kept until exchanged. At Hartford, Delaplace and his comrades were soon joined by the men mentioned in Allen's letter: Major Andrew Philip Skene, an inactive British officer living in the vicinity of the fort, and Lieutenant Wadman, who commanded a landing post on Lake George. In the opinion of the Connecticut General Assembly "the dictates of humanity require that said officers and soldiers with their families should be provided for and supported" while they remained in the colony. But how would they be provisioned and who would pay for their upkeep?⁶⁹

⁶⁹ Ethan Allen to the Massachusetts Congress. Ticonderoga, May 11th, 1775. Duffy, Orth, Graffagnio, and Bellesiles eds., *Ethan Allen*, 1:21; Ethan Allen to Jonathan Trumbull. Ticonderoga, May 12th, 1775. Duffy, Orth, Graffagnio, and Bellesiles eds., *Ethan Allen*, 1:22; Andrew Philip Skene is not to be confused with his father Philip, who had been appointed as the Governor of Ticonderoga earlier in the year. The elder Skene also fell into American hands when he was arrested in Philadelphia on his way from England on June 7th, 1775. He was eventually exchanged for James Lovell of Boston. See Doris Begor Martin, *Philip Skene of Skenesborough* (Granville, N.Y., 1959), 38–66 and *JCC*, 2:108; Duffy, Graffagnio, and Bellesiles eds., *Ethan Allen*, 1:22 n. 2; Charles J. Hoadly, ed., *The Public Records of the Colony of Connecticut, 1636-1776* (Harford: Brown & Parsons, 1890), 15 vols., 15:33, hereafter cited as *PRCC*.

Connecticut's assemblymen, who now found themselves with the onerous task of housing, feeding, clothing, and otherwise providing for over fifty British prisoners and their families, asked Governor Trumbull to write the Continental Congress to inquire as to who was responsible for the prisoners' maintenance. While the Assembly awaited Congress's response, they appointed a committee "to take care of and provide for said officers and soldiers...and see that they be treated with humanity, kindness and respect, according to their rank and station." The members of the Assembly knew well that Delaplace's company had to be treated according to the customs of war in Europe. Any breach of conduct on their part would undermine the colony's claim to legitimate combatant status. They immediately resolved that the men were to be cared for "at the expence [*sic*] of this colony," but they were also aware that according to customary European practice, the British officers, once paroled, were responsible for their own accommodation and sustenance.⁷⁰

In ordering that the prisoners be administered "according to their rank and station," the Assembly not only placed the burden of maintaining a genteel lifestyle while in captivity on Captain Delplace and his officers, they also publicly affirmed their commitment to upholding the prevailing European norms of prisoner treatment. The British officers now had to appeal to General Gage for lines of credit so that they could afford the rent of Hartford's finest boarding houses and the expenses of the city's taverns and diversions. The private soldiers, rather than being confined to barracks or a prison yard, were encouraged to obtain "such profitable labour and business as they may be capable of" from anyone "willing to entertain and give them employment." As would

⁷⁰ *PRCC*, 15:33.

have been the case in Europe, the enlisted soldiers were able to hire out their labor in return for wages. The farmers, shoemakers, tailors, and smiths who employed the prisoners provided for their needs and stood security for their good behavior. What might have been an onerous drain on the colony's coffers quickly became a boon. Through their treatment of these prisoners, the Connecticut Assembly conveyed a potent message to General Gage; though they opposed the actions of Britain's ministry and Parliament, they were not lawless rebels unfamiliar with the customs of war. As accounts of the fort's capture spread throughout the colonies, the contrast between the treatment of Ticonderoga's garrison and that received by Gage's prisoners in Boston could not have been more stark. This was a point upon which newly appointed commanding general of the Continental army George Washington was keen to remind his old friend and comrade General Gage.⁷¹

When Washington arrived in Boston in July, he faced the momentous task of building a professional army from the conglomeration of humanity besieging the city. While republican ideologues decried the perils of standing armies and warned of the corrupting influence of a victorious general, Washington was more concerned with the appearance of legitimacy that could only be acquired through the performance of European military culture. This task proved difficult. Although Congress quickly instituted articles of war based on a British model for the governance of the army, the volunteers of 1775 continued to resist the imprint of a soldier. With no standardized dress, armament, or drill, the Continental army could maintain cohesion, order, and discipline only through its conduct. Washington assiduously insisted that though they might not look like a European army, they would behave like one. When he heard that an

⁷¹ *PRCC*, 15:33; Washington to Gage. Cambridge. August 19th, 1775. *PGW*.

American officer was attempting to extort "compensation for some expense incurred" from the Massachusetts General Court by refusing several British prisoners their baggage, Washington informed fellow revolutionary James Otis that "a procedure of this kind would, in my opinion, much dishonour the *American* arms, and be attended with very disagreeable consequences." Under the conventions of European warfare, surrendered officers were entitled to their personal effects, and the prospect of an American officer violating those conventions for pecuniary gain was repugnant.⁷²

That officer's mercenary actions paled by comparison to what Washington viewed as the "unworthy Treatment shewn to the Officers, and Citizens of America" by General Gage. He was incensed. While he worked tirelessly to turn his men into a semblance of a respectable army by playing politics, attending to local custom, and stroking numerous egos, Gage failed to take notice. To the British general, Washington and his men were all rebels and would be treated accordingly. Reminding Gage that his "Officers, and Soldiers have been treated with a Tenderness due to Fellow Citizens, & Brethren" and that even loyalist demagogues, whom Washington referred to as "execrable Parricides," had "been protected from the Fury of a justly enraged People," Washington bid farewell to his friend, "perhaps forever," with a defiant threat: "If your Officers who are our prisoners receive a Treatment from me, different from what I wish'd to shewn them, they, & you, will remember the Occasion of it." Well accustomed to the norms and conventions of European warfare, Washington felt assured that the mere hint of

⁷² For an account of Congress's adoption of a nearly identical copy of Britain's 1765 Articles of War, see Cox, *A Proper Sense of Honor*, 21; George Washington to James Otis, Sr. Cambridge, August 16th, 1775. *PGW*. The Massachusetts General Court had little authority to compel Captain Jeremiah O'Brian to surrender the officers' baggage. Rather than impugn the honor of American arms, the Court agreed to pay O'Brian "One Hundred Pounds" as recompense for his expenses in transferring the prisoners from Machias, Massachusetts (today Maine) to Cambridge. *Journals of the House of Representatives of Massachusetts* (Boston: The Massachusetts Historical Society, 1919-1990), 55 vols., 51: 75.

retaliation would suffice to change the position of the British government and ensure that this conflict would be carried on with moderation and humanity. When his rebuke failed to achieve the desired effect, Washington, "very Contrary to his Disposition," ordered captive British officers on parole in Watertown and Cape Ann "to be confined in Northampton Gaol." But Washington was too much the European officer to carry out this retaliation in earnest. The officers instead were "indulged with the Liberty of waking about...Town." In a straightforward expression of Washington's vision of war, he requested that the prisoners be shown "every other Indulgence & Civility consistent with their Security." The general hoped that these indulgences would lead the prisoners, and Britons in general, to conclude "that Americans are equally merciful as brave."⁷³

When news arrived in Boston in late September that Gage had been removed from command and formally replaced with the moderate Whig, and longtime friend of America, William Howe, Washington and the revolutionary leadership had every reason to expect that the realities of war from then on would conform to their vision: war as described by Vattel, and later painted by Philipppoteaux, humane, restrained, and civilized. They would be disappointed.

.....

For colonial British Americans in 1775, war was either "civilized" or "savage." This duality was a reflection of both the systemic changes to the European practice of war over the preceding century that had combined to limit war's violence and their practical experience of war with the native peoples of the continent. It was the former

⁷³ Washington to Gage. Cambridge. August 19th, 1775; Joseph Reed to James Otis. August 14th, 1775; Joseph Reed to the Northampton Committee of Safety. August 15th, 1775. *PGW*.

vision of war, one where conflict was carried out by armies of professionals, regulated by discipline, and officered by gentlemen of honor who restrained the use of violence to the field of battle and humanely treated prisoners of war in its aftermath, that the American elite brought to the dispute with Great Britain in 1775. Seeing themselves not as rebels or traitors to the crown, but as virtuous and civilized freeborn Englishmen, duty bound to oppose tyranny by force, these men were determined to scrupulously uphold the conventions of European warfare. At Lexington, Concord, and Bunker Hill, the British had violated these conventions by denying quarter and mistreating prisoners. Although outraged, Washington responded not by retaliating in kind but by further committing themselves to conducting war with humanity and moderation. Lurking under the surface, however, was the memory of another type of war: war where humanity had no place. In the summer of 1775, the potential for "savage" retaliatory warfare was obscured by a vision of generosity, magnanimity, and humanity in Congress's prosecution of the conflict. Just how long this vision could endure remained to be seen.

Chapter Two: The Novelty of War

Ethan Allen, the "hero of Ticonderoga," did not look the part of a conqueror as he sat chained, both hands and feet, in the bowels of HMS *Gaspé* in late September 1775. According to Allen, he and his men were shackled together in pairs and "treated with the greatest severity, nay as criminals." Upon hearing that one of the prisoners was the man who had captured Fort Ticonderoga, the British officer commanding Montréal, General Robert Prescott, "put himself into a great rage" and promised Allen that he would "grace a halter at Tyburn." In Prescott's imagination, Allen was a rebel of the worst sort: a successful one. Rather than accepting Allen's surrender, proffering him a lenient parole, and entertaining him at his table, Prescott ordered him "put into the lowest and most wretched part of" a ship of war with weighty leg irons "close upon [his] ankles [*sic*]." According to Allen, Prescott instructed Captain Royal of the *Gaspé* to treat his prisoners with "severity" and allowed his officers to amuse themselves by regularly mocking and insulting Allen at their pleasure. Allen vociferously protested Prescott's "injustice and ungentleman [*sic*] like usage" and demanded "an honourable and humane treatment as an officer of my rank and merit should have," but his cries fell on deaf ears. Three months later, Allen and his comrades crossed the Atlantic in chains to face the fury of the British crown.¹

¹ Allen, *A Narrative of Colonel Ethan Allen's Captivity*, 8, 9. Library Company of Philadelphia, ESTC W013736; Ethan Allen to General Robert Prescott, September 25th, 1775. Peter Force Papers. Series 7E Mss. 19061. Reel 1. Transcripts of the Ethan Allen Papers. Library of Congress. In reconstructing the narrative of the Canadian campaign, I found these works particularly useful: Robert McConnell Hatch, *Thrust for Canada: The American Attempt on Quebec in 1775-1776* (Boston: Houghton Mifflin, 1979), Michael P. Gabriel, *Major General Richard Montgomery: The Making of an American Hero* (Madison, NJ: Fairleigh Dickinson University Press, 2002), Hal T. Shelton, *General Richard Montgomery and the*

By fall 1775, the British military had made it abundantly clear to the revolutionaries that their actions constituted rebellion, which would be severely punished. Yet, the revolutionary leadership not only continued to insist that their opponents respect European conventions, but also assiduously maintained them themselves. Unprepared for the violence of the British war effort, the revolutionary elite clung to a vision of restrained, limited, and humane warfare between "civilized" peoples. Ordinary Americans, who enthusiastically embraced the war effort in 1775 and 1776, had little cause to question their social superiors. Although many had borne arms against Native American adversaries, few had much experience with European-style warfare. Confronted with the novelties of war, and no longer able to depend on the British military bureaucracy to guide, supervise, and manage the minutia of conflict, the revolutionaries naturally relied on the handful of professional soldiers in their midst to steer their military policy and practice. Their adherence to the norms of war in Europe was soon complicated both by the actions of the British army and by the reactions of their own citizens demanding vengeance. In light of widespread reports of the British abuse of American prisoners, how would the united colonies' fledgling government respond? Was reconciliation with Britain's king even possible, let alone desirable, when royal representatives persecuted captive Americans with more severity than they would Frenchmen or Spaniards?²

American Revolution (New York: New York University Press, 1994), James Kirby Martin, *Benedict Arnold Revolutionary Hero: An American Warrior Reconsidered* (New York: New York University Press, 1997), Bellesiles, *Revolutionary Outlaws*, Paul David Nelson, *General Sir Guy Carleton, Lord Dorchester: Soldier-Statesman of Early British Canada* (Madison: Fairleigh Dickinson University Press, 2000), and Mark R. Anderson, *The Battle for the Fourteenth Colony: America's War of Liberation in Canada, 1774-1776* (Lebanon, NH: University Press of New England, 2013).

² This chapter challenges Eliga Gould's assertion: "To metropolitan and colonial patriots, the Atlantic also seemed to be a place where Britain was free to wage war unencumbered by the legal strictures that limited its actions in Europe." I suggest that it was the Americans status as rebels, not the new world

By examining the first significant campaign of the war, the American invasion of Canada, this chapter argues that the political and military leadership of the revolutionary movement diligently strove to humanely treat their captured enemies in order to perform the legitimacy of their cause to Britain's king, parliament, metropolitan subjects, and fellow colonists at home and abroad. Through their treatment of British soldiers captured in Canada, American leaders conveyed a powerful message to both their antagonists and to each other: though reduced to the necessity of taking up arms to obtain redress for their grievances, *how* they fought would reflect *why* they fought. As they struggled to combat one of the preeminent military and naval powers on the globe, without the benefit of an established military bureaucracy or centralized government, the revolutionary leadership nonetheless created a system of prisoner management largely consonant with European norms. When confronted with British violations of the customs of "civilized" war, Americans threatened retaliation but declined to follow through time and again. Instead, the revolutionaries' military and civilian leadership, as well as whig propagandists, delighted in contrasting American humanity with British savagery. General Philip Schuyler, one of the architects of the Canadian invasion, summarized the American stance: "It has been the invariable rule of Congress, and that of all its officers, to treat prisoners with the greatest humanity, and to pay all due deference to rank." By the

theatre of operations, which the British used to legitimate the violence of their conduct of war. Far from seeing North America as a location that condoned barbarous war, the American revolutionaries insisted that they were members of the "civilized" world and thus were subject to the "the laws of nature and nations." Gould, "Zones of Law, Zones of Violence," 475. See also, Eliga H. Gould, *Among the Powers of the Earth: The American Revolution and the Making of a New World Empire* (Cambridge: Harvard University Press, 2012).

conclusion of the campaign, the revolutionaries would have ample reason to reconsider that position.³

"Blending the Christian with the Conqueror": Prisoner Treatment during the American Invasion of Canada

Early in the summer of 1775, the ambitious Allen parlayed his reputation as the first victorious commander of the conflict into a position in the hierarchy of the united colonies' northern army. Though many senior American officers considered him brash and reckless, Allen's popularity and aggressive spirit made him ideally suited for the revolutionaries' next move. While Washington contended with Gage in Boston, revolutionary Americans in Connecticut and New York saw a golden opportunity in Voltaire's "few acres of snow." With Ticonderoga, Crown Point, and thus all of Lake Champlain in their hands, the path to Canada lay open. The Americans wasted little time in organizing an expedition northward to secure their exposed northern flank and to bring the former French colony into the revolutionary fold.

Attempts by colonial Americans to invade Canada were hardly novel in 1775. In virtually every preceding conflict of the past century, American provincial forces had attempted a two-pronged invasion of the Saint Lawrence valley by both land and sea. Lacking the resources and unanimity necessary to subdue so vast a domain, American colonists had failed monumentally in every prior attempt. It was not until Britain threw the weight of her fiscal-military state at New France in 1759 that Canada was finally coupled to the British Empire.⁴

³ Philip Schuyler to John Hancock. Albany, NY. January 23rd, 1776. Force, *American Archives*, 4th series, 4:818.

⁴ For an excellent brief overview of the colonial wars see Ferling, *Struggle for a Continent*.

In 1775, Canada once again posed a threat to American security. As a point of embarkation for an invasion of New York, a location rich with potential Native American allies and adversaries, and as a vital base of supply for Britain's navy, British-held Canada imperiled the future of the revolutionary cause. Believing that the native French-speaking population would rally to their side, the revolutionaries launched a simultaneous assault on Montréal and Québec under generals Richard Montgomery and Benedict Arnold respectively. Arnold's force struggled overland through the Maine wilderness while Montgomery's troops advanced via Lake Champlain.⁵

An Irishman, and former British officer who had taken part in Britain's conquest of New France in 1759, Montgomery was an obvious choice to command the audacious and intricate assault. Montgomery, however, had no shortage of difficulties controlling an army of headstrong New York and New Englanders; neither group was particularly fond of the other and both were suspicious of Ethan Allen and his Green Mountain Boys from the New Hampshire Grants. Not one to be impressed by claims of rank, Allen viewed Montgomery's instructions as mere suggestions rather than orders. Much as he had at Ticonderoga, Allen set out on his own. Hoping to trump the laurels of Ticonderoga by capturing Montréal, the formerly fortunate Allen became instead the first senior American officer to fall into enemy hands when the British learned of his surprise assault.⁶

Allen's capture did not go smoothly. Abandoned by Major John Brown's two hundred-man supporting force, Allen and his hodgepodge command of 110 Canadians and New Englanders occupied an untenable position in front of the walled city. After a

⁵ Hatch, *Thrust for Canada*, 29-42.

⁶ Gabriel, *Major General Richard Montgomery*, 88-89; Hatch, *Thrust for Canada*, 48.

brief exchange of fire with British regulars, Native American auxiliaries, and Canadian militia, Allen proposed surrender on the condition that he "be treated with honor, and be assured of good quarter for myself and the men with me." He was apprehensive that quarter might be denied. After all, the bulk of his force was composed of Canadian farmers not American soldiers. Allen's recruitment of the Canadians was not strictly consonant with European customs of war. In his treatise on the laws of war, Vattel strictly forbade enlisting soldiers in enemy territory: even going so far as to suggest that the practice "violates one of the most sacred rights of the prince and the nation." Allen's commission from Governor Trumbull of Connecticut did not entitle him to recruit beyond the borders of the colony. If his British captors consulted Vattel, Allen would be "hanged without mercy, and with great justice." To his great relief, the British officer accepted Allen's surrender and allowed the American rank and file to lay down their arms. While in the process of surrendering, Allen and his men were accosted by several native warriors. Products of a very different military culture, the natives sought to capture Allen as a spoil of war. Only the interposition of a British soldier with "a fixed bayonet" saved the New Englander from "so awful a death."⁷

Despite the best efforts of both Allen and his opponents to conduct warfare according to European norms, the realities of war in America complicated the picture. As if to apologize for their inability to restrain the violence of their allies, the British officers who captured Allen treated him "with great civility and politeness." Nevertheless, the inauspicious manner of his capture should have alerted Allen that his troubles were far

⁷ Allen, *A Narrative*, 8; Vattel, *The Law of Nations*, Book III; Allen, *A Narrative*, 8.

from over. Upon his arrival in the city, General Prescott summarily overturned his subordinate officer's promises, and ordered Allen and his men into close confinement.⁸

While Allen languished in captivity aboard the *Gaspé*, American forces under Montgomery laid siege to the British garrison at St. John's guarding the southern approach to Montréal via the Richelieu River. The earthen fortress was formidable, boasting forty pieces of artillery and a garrison of nearly 600 men commanded by Major Charles Preston, a former acquaintance of Montgomery's. Had the Americans bypassed the fort and marched directly on Montréal, their interior lines would have been compromised and their line of retreat cut off. To capture Canada, St. John's had to fall. Unfortunately for the revolutionaries, they lacked both the heavy artillery and well-disciplined troops necessary to reduce the fortification by storm. Montgomery had to rely on a lengthy and costly siege. St. John's did not possess an inexhaustible supply of provisions however. Without resupply or relief, the fort's resistance was only a matter of time.⁹

The garrison at St. John's best hope for support lay with Major Joseph Stopford of the 7th Regiment of Foot and the British supply depot at Fort Chambly six miles to the north. Montgomery quickly dispatched Major Brown with a small force to capture the post. The antiquated stone fortress was in no position to withstand a siege, and Stopford knew it. On October 18th, after only two days of light bombardment, Stopford proposed terms for the surrender of his eighty-three man garrison. In accordance with European custom, the major sought the most favorable terms possible for his men. He suggested that "the garrison, officers, and men, [were] not to be made prisoners, but to march

⁸ Allen, *A Narrative*, 8.

⁹ Hatch, *Thrust for Canada*, chapter 5.

unmolested...drums beating, colours flying" to Montréal. With Montréal's own garrison severely depleted, these British regulars would have been invaluable to the defense of Canada. Stopford's terms were unacceptable. Major Brown countered: Stopford and his men were to "surrender prisoners of war," but the soldiers would be allowed to keep their personal baggage and the women and children of the fort would be permitted to go with the men and take their effects.¹⁰

Considering Stopford's paltry defense of his post, the American terms were lenient. Perhaps Brown thought the stain on Stopford's honor was punishment enough. Much to the disgrace of the proud heritage of the 7th Regiment, known as the Royal Fusiliers, Stopford surrendered the fort, his regiment's colors, and the entire garrison without even bothering to destroy his magazine and other military stores. The fusiliers' flags were sent to Congress to adorn the walls of the Pennsylvania State House and the powder and ball were forwarded to Montgomery, sealing the fate of St. John's. The king's munitions were soon returned to the British via the muzzles of Montgomery's cannon.¹¹

When news of Chambly's fall reached Montgomery, he was elated. He had a problem however. The British prisoners, their families, and all of their baggage were six miles upriver at Chambly and Fort St. John's guarded the passage south. Major Preston, without much trouble, could have obstructed the passage of the prisoners, perhaps even intercepting the column and liberating Stopford's men. As a European officer, however, Preston could not violate the terms of Stopford's agreement with Brown, despite the

¹⁰ Force, *American Archives*, 4th series, 3:1133; Hatch, *Thrust for Canada*, chapter 5.

¹¹ Force, *American Archives*, 4th series, 3:1133. The colors of the 7th Regiment were presented to Congress on November 3rd, 1775. Samuel Adams to Elbridge Gerry. November 4th, 1775. Force, *American Archives*, 4th series, 3:1248; Shelton, *General Montgomery*, 109-110.

shameful circumstances of their creation, without dishonoring himself and British arms. Montgomery sent one of his officers to negotiate the passage of the prisoners around St. John's. In his report to General Schuyler, Montgomery, clearly relieved, observed that "the commanding officer at St. John's has been so polite as to let our batteaus pass to the head of the rapids in order to take in the baggage of the Chambly garrison." Montgomery was pleased that the Briton had "behaved very genteelly" to his negotiating officer. As a former captain in the British army, Montgomery naturally sought to return the favor by entertaining the officers from among his new prisoners. He was particularly impressed with Stopford, whom he described to Schuyler as "a man of Family in Ireland." Stopford's officers, who were "genteel men" in Montgomery's opinion, were welcome additions to the general's evening *soirées*. Montgomery admitted that he felt "great pleasure in shewing [*sic*] them all the attention in my power."¹²

While the enlisted men were immediately hurried south to confinement in Connecticut, the officers were proffered lenient paroles and allowed to remain in Canada until their families could join them. Bound by their word of honor as gentlemen, the officers were under no further "restraint" while in Montgomery's custody. The men were "to be accommodated with refreshments Etc at the Public expence [*sic*]" and loaned the ready cash needed for their trip southward. Once prepared to travel, the officers were given their choice of lodgings in New Jersey or Pennsylvania. Ever the gallant, Montgomery even released several women who had been captured at Chambly to join their husbands at St. John's. In doing so, Montgomery demonstrated to Preston, and his besieged garrison, that he understood the conventions of European warfare. Given the

¹²Montgomery informed Schuyler on October 20th, 1775: "Their number of women & quantity of baggage is astonishing." Montgomery to Schuyler. Camp before St. John's. October 20th and 23rd. Reel 19. Schuyler Papers, NYPL.

ramshackle appearance of the American forces and their haphazard conduct of the siege, the men of the garrison were likely concerned about their fate should the fort fall. Would the rebels grant them quarter and the honors of war? Jacobite Irish and Scottish rebels had rarely observed the niceties of European warfare. Montgomery, however, did not imagine himself as a rebel. He was a quintessential European officer; it would never have occurred to him to have behaved otherwise.¹³

To Sir Guy Carleton, the British governor of Canada, Montgomery was nothing more than a traitorous rebel. A fellow Irishman and comrade of Montgomery's from both the Louisbourg and Havana campaigns of the Seven Years' War, Carleton had no sympathy for a man who compounded rebellion with the betrayal of his brother officers and native land. Unable to punish Montgomery directly, the governor vented his anger on the closest surrogate: Ethan Allen. Following Allen's capture, Carleton had Allen paraded through the streets of Montréal in chains to impress upon the Canadian population the gravity of defying the king's authority. Despite the unease of a number of his own officers at Allen's treatment, Carleton did not countermand Prescott's orders and allowed Allen and his men to remain chained in *Gaspé's* hold. Carleton, like Prescott, rebuffed Allen's pleas for relief.¹⁴

Prior to his capture, Allen's relationship with Montgomery was already strained. To Montgomery, an Irish gentleman who had held a king's commission, Allen appeared

¹³ Montgomery to Schuler. Camp before St. John's. October 23rd, 1775. Reel 19, Schuyler Papers. NYPL; Schuyler to John Hancock. October 21st, 1775. Force, *American Archives*, 4th series, 3:1130; Sankey, *Jacobite Prisoners*, 104.

¹⁴ Gabriel, *Major General Richard Montgomery*, 123; Nelson, *General Sir Guy Carleton*, 69-70. Not all of the British officers in Canada agreed on Allen's treatment. According to Allen, Captain Royal of the *Gaspé* "did not seem to be an ill natured man; but often times said, that his express orders were to treat me with such severity, which was disagreeable to his own feelings; nor did he ever insult me." He went on to describe the actions of one of Carleton's officers named Bradley as "very generous to me." Allen, *A Narrative*, 10.

uncouth, untrustworthy, and unabashed in his ambition. Upon learning of Allen's misfortune, he wrote Schuyler: "I have to lament Mr. Allen's imprudence & ambition." Nevertheless, Allen was an officer in the American army and Montgomery's subordinate. In the European culture of war so familiar to Montgomery, he had a responsibility to ensure that Allen was treated according to his rank as an American officer, even if he did not measure up to Montgomery's standards as a gentleman. Carleton's treatment of Allen and his men was a direct assault on the legitimacy of the American army and Montgomery's authority. If the general could not protect his men, how could he expect them to follow him into harm's way?¹⁵

In Montgomery's estimation, Carleton required a reminder of the principal of reciprocity that undergirded Europe's culture of war. He instructed one of his officers to communicate to Carleton "that if Mr. *Allen* or any other prisoner of our troops...are treated with cruelty, or more severity than is necessary for their security, I must, much against my inclination, retaliate on those who already are or may fall into my hands." After the capture of Chambly, Montgomery had plenty of suitable subjects for retribution. Much as Washington had threatened Gage with retaliation for the treatment of the Bunker Hill prisoners, Montgomery was confident that the mere suggestion of retaliation would suffice to alleviate Allen's sufferings. In a report to Schuyler, Montgomery revealed his intention to "endeavour by means of the Chambly garrison to obtain better treatment for Allen & the other prisoners." He was equally concerned for the Canadians who had been captured with Allen. These men, who were direct subjects of Governor Carleton, were more likely to face summary judgment than Americans who would probably be

¹⁵ Montgomery to Schuyler. Camp near St. John's. September 28th, 1775. Philip Schuyler Papers, Reel 19, NYPL.

transferred to England for trial. If Montgomery did nothing to stop Carleton from hanging the Canadians, any hope of recruiting further allies from among France's former subjects would be at an end.¹⁶

Montgomery's threat did not produce the desired result. Carleton ignored him. Growing desperate, Montgomery asked Major Stopford to inform the governor of "the fatal consequences which must attend the carrying on so barbarous a war." In Montgomery's opinion, treating "unfortunate prisoners with the most cruel severity, [and] loading them with irons" was beneath the dignity of so estimable an officer as Carleton. Writing the governor personally on October 22nd, Montgomery referred to Carleton as "one of the most respectable officers of the Crown." He lamented "the melancholy and fatal necessity" of remonstrating against Carleton's treatment of American prisoners. This was no false flattery. Carleton had led the British assault against the castle of *El Morro* in Cuba in 1762, and young Lieutenant Montgomery had seen first hand his bravery under fire.¹⁷

As governor of Canada, however, Carleton no longer looked the part of the brave and honorable officer in Montgomery's eyes. He obviated not only his humanity but also his prudence by treating Allen and his men so severely. Did he not fear retaliation? Montgomery now possessed far more British prisoners than Carleton had Americans and the entire garrison of St. John's was poised to fall into his hands. As a gentleman and man of sensibility, he admitted feeling "the most painful reluctance on this melancholy occasion," but Montgomery's duty to his own troops demanded retaliation in kind.

¹⁶ Montgomery to Major John Brown. Camp near St. John's, October 6th, 1775. Force, *American Archives*, 4th series, 3:1098; Montgomery to Schuyler. Camp before St. John's. October 20th, 1775. Reel 19. Schuyler Papers, NYPL.

¹⁷ Montgomery to Carleton. St. John's, October 22nd, 1775. Force, *American Archives*, 4th series, 3:1138-9; Shelton, *General Montgomery*, 30 and Gabriel, *General Montgomery*, 123.

Carleton's treatment of Allen was a "shocking indignity" that required Montgomery, "with the most painful regret," to "execute with rigour the just and necessary law of retaliation" upon the Chambly prisoners. Far exceeding the *lex talionis*, or law of retaliation, Montgomery threatened that if he did not receive a response in six days, he would interpret Carleton's silence as "a declaration of a barbarous war," in which no quarter would be asked or given. Carleton, unwilling to negotiate with rebels and traitors, remained mute. In a letter to the Secretary of State for the Colonies, the Earl of Dartmouth, the governor vented, "I shall treat all their threats with silent contempt, and in this persevere, were I certain of falling into their hands the following week." Such bravado stemmed from his firm belief that he was not "at liberty to treat otherwise those who are traitors to the King." This was not a war between rival European dynasties, and Montgomery was no longer a fellow officer and gentleman. Rebellion had to be stamped out and rebels had to be punished.¹⁸

Despite the vehemence of his official stance, and Carleton's recalcitrance, Montgomery had no intention of eschewing the restraints of "civilized" warfare. He was well aware that the legitimacy of the American cause in general, as well as their claim to be "liberating" Canada, depended upon the rigid adherence to European customs of war. Instead of retaliating on the prisoners at his disposal, Montgomery did nothing. He knew that if St. John's fell, Montréal would be indefensible; Carleton would have to surrender, and Allen and his men would be liberated. Montgomery ignored his retaliatory threats

¹⁸ Montgomery to Stopford. St. John's, October 20th, 1775. Force, *American Archive*, 4th series, 3:1134; Montgomery to Carleton. St. John's, October 22nd, 1775. Force, *American Archives*, 4th series, 3:1138-9; Carleton to Dartmouth. October 28th, 1775. Canadian Archives. State Papers and Correspondence concerning the Province of Québec, 1760-80. Q.11, p. 267. Quoted in Victor Coffin, *The Province of Quebec and the Early American Revolution* (Madison: University of Wisconsin Press, 1896), 370.

and concentrated on the siege of St. John's. When the Americans opened a new battery on the fort's flank in late October, Major Preston had little choice but to seek the best terms possible for his men. On November 1st, Montgomery demanded the fort's surrender.¹⁹

Unlike Stopford, Preston had resisted the siege diligently, and he attempted to parlay the strength of that defense into a convention rather than a capitulation. Instead of becoming prisoners of war, he hoped his men would be allowed to "embark for *Great Britain*" on the condition that they not serve in America again. Montgomery was sympathetic to Preston's position. He had skillfully defended his post: maintaining his honor as a gentleman, and that of his regiment, under extremely adverse conditions. But the prize of over six hundred British prisoners was too great for Montgomery to relinquish. Preston's position was hopeless, and under the conventions of European warfare he was in no position to negotiate. As Montgomery phrased it, "if you do not surrender this day, it will be unnecessary to make any future proposals; the garrison shall be prisoners of war, without the honours of war, and I cannot ensure the officers their baggage." Had Preston rejected Montgomery's ultimatum, the Americans would have stormed the fort under no obligation to grant the British garrison quarter. Preston acquiesced.²⁰

After a siege of forty-eight days, on the morning of November 3rd Preston and his men marched out of the battered fortress "with the honours of war...due to their fortitude and perseverance" and grounded their arms in front of a rough-hewn and patchwork

¹⁹ Hatch, *Thrust for Canada*, 91-2.

²⁰ Articles of Capitulation Proposed by Major Charles Preston. St. John's. November 2nd, 1775. Force, *American Archives*, 4th series, 3:1394; Montgomery to Preston. St. John's. November 1st, 1775. Force, *American Archives*, 4th series, 3:1393.

parade of American soldiers. This armed assemblage of farmers, tradesmen, apprentices, and servants now possessed as prisoners nearly all of the regular British soldiers in Canada. The official articles of capitulation signed by Preston and Montgomery boasted that British "prisoners have been constantly treated with a brotherly affection" and promised that "the effects of the garrison shall not be withheld from them." The officers were allowed to keep their swords and presumably their regimental colors as no mention was made of them in the articles of capitulation or in the records of the Continental Congress. At the conclusion of the ceremony, the prisoners embarked for confinement in Connecticut, "there to remain till our unhappy differences shall be compromised, or till they are exchanged." Quite contrary to his earlier show of bravado to Carleton, Montgomery relished extending professional courtesies to the captured British officers, even releasing "an officer or two to go to their families...at *Montreal*" on parole. He explained his reasoning to Schuyler: "They cannot do us any harm, and there would have been a degree of inhumanity in refusing them." Although the general had been quick to invoke the law of retaliation in his protestations to Carleton, when faced with an opportunity for revenge, he did just the opposite. Seeing fellow officers and gentlemen in distress, Montgomery offered them every indulgence. The rank and file of the garrison were treated with respect, allowed to keep their personal property, and promised a lenient confinement until they could be exchanged.²¹

General Schuyler, a veteran of New York's provincial forces and a scion of one of the wealthiest and most politically-connected families in the colony, was equally concerned with performing his gentility in front of his new captives. He acquainted

²¹Articles of Capitulation for His Majesty's Forts at St. John's in the Province of Canada. St. John's. November 2nd, 1775. Force, *American Archives*, 4th series, 3:1394; Montgomery to Schuyler. St. John's. November 3rd, 1775. Force, *American Archives*, 4th series, 3:1392.

Governor Trumbull of Connecticut of his past relationships with the garrison's officers:

"From Major Preston, and the officers of the Twenty-Sixth Regiment, I have experienced the most polite and friendly attentions when I was a stranger and traveller [*sic*] in *Ireland*." Remembering their gentlemanly courtesy and sociability, Schuyler recommended them to the governor's "notice" and requested that "if there is any choice in the quarters which you shall destine to them, that theirs were the best." On their route southward, the prisoners were "to be Entertained at the Publick expence [*sic*]" and "treated with the utmost attention and politeness." Schuyler warned the officer of the guards conveying the prisoners to "be particularly attentive that no person, who may have forgot [*sic*] the rights of mankind and the principles of Englishmen offer the least insult to any of the Gentlemen, the Soldiers, their Wives, or Children." Still imagining himself as a British gentleman, Schuyler insisted that his subordinate officers do likewise. Montgomery and Schuyler were not men prepared to exercise the *lex talionis*. Instead, the American generals forwarded the captured Britons and Canadians to New York and Connecticut where they could more easily and more comfortably be provisioned and lodged.²²

As the transports carrying Preston's men sailed down the Richelieu towards confinement, Carleton began preparations to abandon Montréal. Knowing that he could not possibly hold the city with his meager garrison, the governor fled rather than contest Montgomery's advance. Before he decamped to Québec, Carleton conveyed Allen and

²² Schuyler to Trumbull. Ticonderoga. November 10th, 1775. Force, *American Archives*, 4th series, 3:1426; Schuyler to John Hulbert. Ticonderoga. November 1st, 1775. *Papers of the Continental Congress*, National Archives of the United States, Record Group 360, M247, Item 68, Page 55, hereafter cited as *PCC*. Prisoners captured during the siege of St. John's were forwarded first to General Schuyler at Fort Ticonderoga and then to Connecticut. Schuyler to Trumbull. Ticonderoga. October 27th, 1775. Force, *American Archives*, 4th series, 3:1207.

the other American prisoners to the capital where they were confined aboard ship in the Saint Lawrence so that they would not fall into American hands. In a letter to Dartmouth, Carleton admitted that the Allen's men were confined in irons, a security measure far too stringent for traditional prisoners of war. Carleton explained: "We have neither prisons to hold, nor troops to guard them." Nevertheless, he asserted that "they have been treated with as much humanity as our own safety would permit." Carleton's justifications aside, Allen's confinement was neither humane nor safe. With Benedict Arnold's column nearing Québec, the city's commander, Lieutenant Governor Hector Cramahé, made the strategic decision to send Allen and the other Americans to England. Lacking suitable jails and the manpower necessary to guard the prisoners, Cramahé was ecstatic to be rid of so many useless mouths to feed.²³

Allen, however, was less than confident. Any chance of escape or rescue was at an end. Instead, he and his men endured the trans-Atlantic passage under the stewardship of a captain named Brook Watson who Allen described as "a man of malicious and cruel disposition." Watson ordered all thirty-four prisoners confined in a purpose-built pen in the hold of ship where they were forced to both "eat and perform the office of evacuation, during the voyage to England." According to Allen, Watson claimed "the place was good enough for a rebel" and "that anything short of a halter was too good for" him. Every league the ship drew closer to England, the captain's threat grew closer to reality. In Canada, the absence of any official policy for how to treat American prisoners had

²³ Carleton to Dartmouth. October 28th, 1775. Quoted in Coffin, *The Province of Québec*, 370. Gerald Haffner and more recently Edwin Burrows have argued that Allen was sent to England to stand trial for treason. In his letter to Lord Dartmouth, Cramahé made it clear that the reason was expediency rather than justice. Cramahé to Dartmouth. Québec. November 9th, 1775. Calendar of the State Papers of Canada in Douglas Brymner, *Report on the Canadian Archives for 1890* (Ottawa: Brown Chamberlin, 1891), 66, Haffner, "The Treatment of Prisoners of War," 64, and Burrows, *Forgotten Patriots*, 39.

preserved his life, though it ensured the severity of his captivity. In England, Allen would be subject to civil law, and he knew well the punishment for treason. Prescott's prophesy of a halter at Tyburn hill looked like it just might come true.²⁴

As Allen approached his fate, American forces under Montgomery pried Montréal from the grasp of the British Empire. In a reverse of the 1759 campaign that subdued New France, Canada's second most populous city surrendered before the capital was even attacked, exposing the Saint Lawrence valley to American incursions, and dooming Québec if not relieved by sea. Along with the city and its 150 man garrison, Montgomery also captured the infamous Brigadier General Prescott. The man who had ordered Allen in chains, Prescott was beneath Montgomery's contempt. He had violated the customary norms of war between "civilized" peoples by treating Allen, an officer in the American army, as a common criminal. Montgomery described Prescott as a "cruel rascal" who deserved to be treated "with the sovereign contempt his inhumanity and barbarity merit[ed]." His dislike of Prescott was such that he confessed to Schuyler that should anything happen to Allen, "I hope *Prescott* will fall a sacrifice to his manes." Despite this imprecation, Montgomery did little to punish Prescott beyond banishing the Briton from his dinner table. Passing him on to Schuyler at Ticonderoga, Prescott was then sent into Connecticut with the other officers of his regiment. Montgomery's actions, or inactions, should come as no surprise. While outraged by Prescott's behavior, Montgomery could not punish Prescott without further escalating the conflict's violence and sullyng his own honor and that of American arms.²⁵

²⁴ Allen, *A Narrative*, 11, 12.

²⁵ Burrows, *Forgotten Patriots*, 30; Montgomery to Janet Montgomery. Montréal. November 24th, 1775. Janet Montgomery Papers, Edward Livingston Collection, Mudd Manuscript Library, Princeton

For some of Montgomery's junior officers, less versed in contemporary European customs, his treatment of British prisoners looked more like weakness than humanity. Their only experience of war was the present conflict in which the British were not observing such niceties. Why was Montgomery holding American troops to a higher standard? Grumbling escalated to an official complaint in which Montgomery was accused of endangering "the publick safety" by allowing the British officers to remain at liberty in the city. As Montgomery explained to Schuyler, "A number of officers presumed to remonstrate against the indulgence I had given some of the officers of the King's troops." Schuyler, who was deeply concerned with maintaining the appearance of a professional army in the eyes of his antagonists and superiors alike, was concerned that "this turbulent and mutinous spirit will tend to the ruin of our cause" if Montgomery did not put a stop to it at once. Outraged by his officers' temerity and insubordination, Montgomery resigned on the spot. Quickly realizing their mistake, the officers begged him to resume command. Montgomery was the only senior officer in the northern army with substantive knowledge of European tactics and siege operations. Though they disagreed with his policies, they were cognizant of his indispensability. Montgomery had made his point; he immediately returned to his duties as the army's commander. The officers would never again question Montgomery's vision of the proper conduct of war.²⁶

The common soldiers of the northern army, however, were less easily mollified. Many viewed the captured Britons as spoils of war, and considered themselves entitled to

University; Montgomery to Schuyler. Montréal, November 24th, 1775. Force, *American Archives*, 4th series, 3:1694.

²⁶ James Clinton, John Nicholson, and Lewis Dubois to Montgomery. Montréal. November 23rd, 1775. Force, *American Archives*, 4th series, 3:1695; Montgomery to Schuyler. Montréal. November 24th, 1775. Force, *American Archives*, 4th series, 3:1695; Schuyler to John Hancock. December 8th, 1775. Albany, NY. Force, *American Archives*, 4th series, 4:219; Shelton, *General Montgomery*, 121.

their possessions. In the aftermath of the capitulation of Montréal, New York soldiers pillaged British troops of their personal clothing and effects. Not one to take his responsibility toward enemy prisoners lightly, Montgomery interceded for the prisoners and returned their clothing, much to the dissatisfaction of the New Yorkers. The general explained to Schuyler, "I would not have sullied my own reputation nor disgraced the Continental arms by such a breach of Capitulation." As an officer and a gentleman, as well as a representative of the Continental Congress, Montgomery was honor bound to protect his prisoners and maintain the terms of the articles of capitulation. That his men disagreed is a telling reminder of just how tenuous and elite-focused the European culture of war was on the other side of the Atlantic.²⁷

News of the American victories in Canada electrified revolutionaries across the colonies. As fort after fort fell, the press painted an image of an unstoppable American juggernaut in their readers' imaginations. The manner in which the campaign was conducted was a point of particular pride. American troops had not adopted the "skulking way of war" so derided by British officers in the last conflict, and they were no longer hiding behind defensive works awaiting British assaults. Newspapers from Philadelphia to Boston printed the articles of capitulation for Chambly, St. John's, and Montréal, crafting a potent picture of the Continental army on the offensive: reducing Britain's northern bastions one by one according to conventional European modes. Along with a copy of Marshal Maurice de Saxe's *Reveries*, Montgomery had brought with him a vision of "civilized" warfare, developed over years of experience and study, which induced him to humanely handle his captured enemies. While not everyone in the northern army

²⁷ Gabriel, *Major General Richard Montgomery*, 139-140; Montgomery to Schuyler, Montréal, November 13th, 1775, Reel 19, Schuyler Papers. NYPL.

shared this vision, Montgomery successfully imposed the European culture of war on his army of American volunteers.²⁸

Away from the front, revolutionary Americans took pride that their army conducted itself with "humanity and benevolence." When Benedict Arnold captured Crown Point in July, he received an address from the "principal Inhabitants" of the region complimenting him on his "tenderness and polite treatment" of British prisoners. Expressing a sentiment that was common throughout the colonies during the Canadian campaign, the inhabitants declared, "The humane and polite manner with which you treated your prisoners, insures to you the applause of all." Montgomery, who looked the part of the virtuous and benevolent officer in the European mold, received even more adulation than the rustic Arnold. Revolutionary Americans praised him as the paragon of martial glory and "civilized" sensibility. After the capture of Montréal, John Hancock complimented Montgomery not just for his victory, but also for the manner in which it was achieved. Commenting on his treatment of prisoners, Hancock applauded: "Nor are the humanity and politeness with which you have treated those in your power less illustrious instances of magnanimity than the valour by which you reduced them to it." Courage was inseparable from benevolence in the congressman's idealized European conception of war. In his panegyric, Hancock promised that Congress, "utterly abhorrent from every species of cruelty to prisoners," would continue to support Montgomery's

²⁸ *Boston-Gazette*, November 6th, 1775, *New-York Gazette*, November 6th, 1775. See also Sarah J. Purcell, *Sealed with Blood: War, Sacrifice, and Memory in Revolutionary America* (Philadelphia: University of Pennsylvania Press, 2002), 24-5; For the articles of capitulation for Chambly see *Connecticut Journal*, November 15th, 1775. For St. John's see the *Pennsylvania Gazette*, November 15th, 1775. For Montréal see the *New-York Gazette*, December 4th, 1775; Gabriel, *Major General Richard Montgomery*, 108.

vision of war and "ever applaud their officers for beautifully blending the Christian with the conqueror."²⁹

The Administration of the Canadian prisoners

While the northern army shifted its attention to the capital city of Québec, the British prisoners began their march southward. Once at Fort Ticonderoga, General Schuyler made the decision to foist the prisoners from St. John's and Montréal upon the governments of New York and Connecticut. These were ideal locations: far enough from the enemy's main force in Boston that rescue was unlikely, but close enough to both Washington's and Schuyler's headquarters that orders could easily be relayed. Both colonies also had experience housing French prisoners during the last war. Because Connecticut was the only colony whose royal governor embraced the revolutionary effort, it still maintained many of its pre-war governmental institutions and was thus more prepared to receive large numbers of captives than New York. After the capture of Ticonderoga, Ethan Allen had sent Captain Delaplace and his men to Hartford where they were provided for by a committee of the colonial assembly. Informing Governor Trumbull of his newest wards, Schuyler instructed the governor that he could "dispose of them as your Honour shall direct." Seeing that Congress had failed to make any provision for their confinement or support, the Connecticut Assembly asked the governor to write Congress inquiring "in what manner the officers and soldiers who are prisoners...shall be provided for and supported, and how and in what manner the expence [sic] incurred thereby shall be defrayed." Until directions from Congress could be had,

²⁹ Address of the principal Inhabitants on Lake Champlain to Benedict Arnold. Crown Point, NY. July 3rd, 1775. Force, *American Archives*, 4th series, 2:1088; Hancock to Montgomery. Philadelphia. November 30th, 1775. Force, *American Archives*, 4th series, 3:1718.

the Assembly ordered that the prisoners be administered in the same manner as the garrison of Fort Ticonderoga.³⁰

Unlike the British soldiers captured at Lexington and Concord who were often confined in crowded and cramped local jails, the Connecticut Assembly allowed the enlisted prisoners from Canada, along with the previously captured redcoats, the privilege of seeking employment among the local population. This option was not only beneficial to the prisoners, who were allowed to keep their earnings, but also to the colony by successfully outsourcing the prisoners' lodging and provisioning. Ezekiel Williams, a member of the committee appointed by the Connecticut Assembly to care for the prisoners from Chambly, reported that they were sent "out into the several Towns near about Hartford and hire[d]...[and] Boarded in Families in the best manner we could." Williams "appointed and engaged some of the respectable Men in the several towns to take care & have the oversight of them" because he lacked any "regulation of Congress concerning them." The British enlisted men captured at St. John's were "put out in like manner" in Litchfield County.³¹

³⁰ For French prisoners being sent to Albany in 1755 see William Cockcroft to Sir William Johnson. Fort Lyman. September 20th, 1755. After the battle of Lake George, Johnson sent the Baron Dieskau and his officers to Albany where they were put "under the Jurisdiction of the Govr. of New York." Sir William Johnson to Spencer Phips. Camp at Lake George. October 10th, 1755. Alexander C. Flick, ed., *The Papers of Sir William Johnson* (Albany: The University Of the State of New York Press, 1921-65), 14 vols., 2:63, 163. For information on French prisoners in Connecticut during the war see *Connecticut Archives*, F91.C56, Colonial War Records, 1675-1775. Series 1. Connecticut State Library, Hartford. 6:139, 8:242, 8:243, 9:133; Schuyler to Trumbull. Ticonderoga, November 10th, 1775. Force, *American Archives*, 4th series, 3:1426; Resolution of the Connecticut Assembly, New Haven October 11th, 1775. *PRCC*, 15:146; Resolution of the Connecticut Assembly, October 11th, 1775. New Haven. *PRCC*, 15:145. Trumbull wrote John Hancock on November 11th, 1775 informing him that Connecticut would provide "for the reception and entertainment in several Towns in the County of Litchfield" of the prisoners captured in Canada, but he enclosed the above resolution. Trumbull to Hancock. November 11th, 1775. Lebanon, CT. Force, *American Archives*, 4th series, 3:1529. On the experience of British prisoners in Hartford see Herbert H. White, "British Prisoners of War in Hartford During the Revolution," in *Papers of the New Haven Colony Historical Society*, vol. 8 (1914), 255-276.

³¹ Ezekiel Williams to Elias Boudinot. Wethersfield, CT. September 13th, 1777. Elias Boudinot Papers. MMC 721. Box 1. Library of Congress.

The hiring-out system, however, could not be used to accommodate officers whose status as gentlemen protected them from menial tasks. Drawing upon the European customs for the treatment of enemy officers, the commissioned prisoners were granted their freedom of movement, within certain geographic parameters, upon signing a parole of honor neither to escape nor to oppose in word or deed the united colonies. They were expected to live peaceably and quietly until Congress and the British government arranged a treaty of exchange, known as cartel, to release the men in return for American officers of equal rank in British custody. Just as Captain Delaplace and Governor Skene before them, Prescott, Preston, and their officers readily acceded to the terms of the parole. In return for their placidity, the officers could expect to be accorded all the privileges of their exalted status. After the fall of Ticonderoga, General Wooster, Montgomery's second in command, ordered the Wethersfield Committee of Correspondence to treat Governor Philip Skene "with that politeness & civility which is due to a Gentleman of his Rank," and Governor Trumbull saw to it that he was afforded "Lodgings & Entertainment" while in Hartford under "his Parole of Honor."³²

The New York Provincial Congress followed Connecticut's lead in their treatment of the British prisoners captured in Canada. The Congress ordered the Albany Committee of Correspondence to "provide them with Lodgings & Board at the public expense." Although the officers could reasonably be expected to sustain themselves by drawing lines of credit, the Assemblymen considered it their "Duty to alleviate as much as possible the Evils of their Confinement" by furnishing them the necessities of life.

³² Major General David Wooster to Captain David Dimon. Camp near New York, July 10th, 1775 and Jonathan Trumbull to the Committee Appointed to Take Care of Prisoners. Hartford, CT. July 22nd, 1775. John C. Parsons, ed., *Letters and Documents of Ezekiel Williams of Wethersfield, Connecticut* (Hartford: Acorn Club, 1976), 43, 44.

They even released two British enlisted men captured in Canada on their parole. The men were "permitted to remain peaceable and unmolested in the City of *New-York*." Devoid of the innate honor that accompanied genteel status in eighteenth-century Europe, common soldiers should not have been paroled on the mere basis of their word to remain *hors de combat* until exchanged. Such treatment was particularly generous considering one of the men had already escaped custody once before. So concerned with treating their enemy captives with generosity, thereby performing their legitimacy as a governmental institution, the Albany Congress effectively released men who were unconstrained by the strictures of gentlemanly honor. Novices in the conduct of war, the civilian Congressmen applied the European custom of parole further than it was ever intended.³³

Not everyone agreed that British prisoners, especially common soldiers, should be allowed to roam freely. During the summer of 1775, the Albany Committee requested to put prisoners from Canada "in close Confinement" because they believed the "prisoners from St Johns have it in their Power to be of disservice to the public Cause by having Liberty to intermix with the Soldiers of the Continental Army, and others." In the opinion of the committee, the prisoners took "more Liberty than Consistent with the Station they were in." Enlisted prisoners loitering about taverns and inns in relative freedom and luxury did little to motivate potential recruits or boost morale. Their request was overruled, but their concerns did not disappear.³⁴

³³ Albany Committee Minutes. October 23rd, 1775. James Sullivan, ed., *Minutes of the Albany Committee of Correspondence, 1775-1778* (Albany: New York Division of Archives and History, 1923), 276; The Cases of Neill McFall and William Elphinston. New York Provincial Congress. October 20th, 1775. Force, *American Archives*, 4th series, 3:1299.

³⁴ Albany Committee Minutes. August 24th, 1775. Sullivan, ed., *Minutes of the Albany Committee*, 212.

The situation in Connecticut was little better. The inhabitants of Farmington reported that some of the prisoners captured at Chambly were "turbulent and disorderly" and likely to escape. Rather than imprison the men, the Connecticut Committee of Safety suggested that the townspeople keep "a special and vigilant watch over those persons, so as to prevent their escape, even if some extra expense should be incurred thereby." The committee members knew that if they confined the soldiers, "they may complain of hard usage," a propaganda coup the British might use to justify their harsh treatment of American prisoners. Connecticut's leaders were unwilling to throw away the moral high ground Montgomery had won in Canada. Nevertheless, their patience for disorderly, prone to escape, and expensive prisoners was running out quickly.³⁵

In the opinion of ordinary Americans, his majesty's captured officers were equally as wearisome. Although welcomed at first as gentlemen of refinement, erudition, and sensibility, as the fall of 1775 slipped into winter, the burden of the British officers began to take its toll on the communities that housed them. Governor Skene apparently made himself quite unpopular in Hartford. When news reached that community that General Gage refused to countenance an exchange of prisoners, one exasperated Hartford resident sardonically quipped, "In all Probability we shall have the Honour of his Excellency Governor Sken's [*sic*] residence among us—God knows how long." Gage's refusal surprised both townspeople and prisoners alike who assumed that the prisoners' confinement would be only temporary. They believed that a formal cartel would be established between generals Washington and Howe specifying how and when they would be exchanged. Such agreements had been commonplace in European warfare for

³⁵ Proceedings of the Connecticut Committee of Safety. November 23rd, 1775. Force, *American Archives*, 4th series, 3:1638.

over a century. General Howe, however, followed Gage's lead by refusing to negotiate with Washington. The two men severed all communication in late August and did not resume contact until the end of December. Without communication there could be no compromise and no exchange. The officers would remain prisoners.³⁶

While most were content to wile away their captivity at cards, in drink, or at play, some officers chaffed under the conditions of their paroles. One particularly obstreperous officer, Major Christopher French, inundated Washington, Joseph Reed, and John Hancock with a litany of complaints and reproofs. French, along with an ensign from the 47th regiment, had been captured when his ship arrived at the port of Philadelphia in early August. Ignorant of the commencement of hostilities and distaining any authority not derived from the king's majesty, French refused to be considered a prisoner of war. Rather than face the jail, however, he agreed to their terms until he could meet with the commander of the American forces. Happy to be rid of the arrogant French, Benjamin Franklin and the committee sent him "by Stage" at their expense to General Washington in Cambridge. The general, preoccupied with his siege of Boston and lacking the resources to adequately entertain a prisoner of field-grade rank, requested that the prisoners be sent to Connecticut under the care of Governor Trumbull where they would "be treated with kindness." The officer instructed to convey French to Hartford was "enjoined to show [him] every mark of civility and respect." Despite the promise of treatment appropriate to his rank as an officer and a gentleman, French was enraged at being pawned off on a civilian governor without even an interview with the commanding

³⁶ *The Connecticut Courant*, October 16th, 1775. For the discussion of a potential cartel for prisoner exchange, and the severance of communication between both officers, see Howe to Washington, August 22nd, 1775 and Washington to Howe, August 23rd, 1775. Washington broke his silence to remonstrate against the treatment of Ethan Allen. Washington to Howe, December 18th, 1775. *PGW*.

general. He wrote Washington insinuating that the American general had forgotten his sense of "Justice & knowledge of military Rules" by presuming to treat him as a prisoner of war. French explained that he "objected to our being by any means consider'd as prisoners" because "the Custom of War allots a certain Period of the departure of the ships & Subjects of the inimicable [*sic*] Nation." French implied that in warfare between "civilized" nations, military authorities granted foreign travelers, traders, and other visitors a period to evacuate the theatre of war before their property or persons could legitimately be seized. Invoking European customs of war, French hoped to capitalize on Washington's status as former Provincial officer and fellow gentleman to obtain his release.³⁷

Washington, no novice to the culture of war in Europe, knew that French's claim was groundless. The major's argument was premised on the assertion that he had no hostile intent toward the colonies, having not been "taken in arms," but the truth of the matter was that he had come to America with uniforms and supplies much needed by the Boston garrison. To Washington, French and his colleagues were "the voluntary Instruments of an Avaricious & vindictive Ministry" come to America to impose tyranny by force of arms. Even in a European context, French's claim was dubious. In his treatise on the law of nations, Vattel agreed with French that in wars between "civilized" peoples, enemy subjects must be allowed "a reasonable time for withdrawing with their effects," after the declaration of war, but this proviso applied only to "unarmed enemies." French and his colleagues were soldiers, and they had come into the colony bearing arms, though they were captured before they could employ them offensively. According to

³⁷ Samuel Hazard, ed., *Colonial Records of Pennsylvania, 1683–1800* (Philadelphia, 1852–53), 16 vols., 10:302–6, 305; Col. Joseph Reed to French. October 3rd, 1775. Cambridge, MA. Force, *American Archives*, 4th series, 3:639; French to Washington. Framingham, MA. Sept 3rd, 1775. *PGW*.

Vattel, French's claim of ignorance of the commencement of hostilities was insufficient to warrant his release because the colonies were engaged in a defensive war and were therefore under no obligation to formally declare war on Great Britain. As Vattel put it: "He who is attacked and only wages defensive war, needs not to make any hostile declaration." Washington saw through French's ploy and ordered Joseph Reed to instruct French that his "Detention is both justifiable & proper." Aware of General Gage's treatment of American officers in Boston, Reed reminded French that Gage had already severely breached the customs of war with the fallacious justification that "the Appellation of Rebel is supposed to Sanctify every Species of Perfidy & Cruelty towards the Inhabitants of America." To release French under those circumstances "would be a Strange Missapplication [*sic*] of Military Rules." Rather than simply rely on the timeless adage might makes right, American officers at this period insisted on the rigid adherence to the letter of European military law and custom³⁸

With his status as a prisoner of war no longer in question, French found other means to pester his captors. Paroled to Hartford, the major was at liberty to come and go as he pleased throughout the city. According to the chairman of Hartford's committee of safety, Thomas Seymour, French spent his time haranguing every passerby "in high Tone" on the evils of rebellion and promised to "act vigorously against the Country, & do every thing in his Power to reduce it." Seymour informed Washington that French "talkd [*sic*] in so high a Strain that the People veiwd [*sic*] him as a most determined Foe." Rather than confine French in Hartford's jail where he could do no harm, the committee merely forbade French the privilege of wearing his sword in public. In Seymour's

³⁸ Minutes of the Pennsylvania Committee of Safety. Philadelphia. August 12th, 1775. Force, *American Archives*, 4th series, 3:499; Washington to French. Hartford. September 26th, 1775. *PGW*; Vattel, *The Laws of Nations*, Book III; French to Washington. September 3rd, 1775. Note 3. *PGW*.

opinion, the people of Hartford "would not bare with his wearing Arms at any Rate." A seemingly innocuous punishment, this disarmament was no "mere Punctilio" to the European officer.³⁹

The symbol of an officer, as much a badge of rank and status as a weapon, the sword was vested with dense meaning in Europe's culture of war. For an eighteenth-century European noble, the sword was not only a tool to defend his sovereign, as well as his honor; it was an inseparable part of his social and gender identity. The wearing of a sword denoted gentlemanly status. The common law of England even forbade the wearing of swords by any who were not entitled to do so by birth or military position. Although by 1775 swords had fallen out of fashion among gentlemen in England and her colonies, the tradition, and its meanings, remained strong with martial men. In his 1772 portrait by Charles Wilson Peale, Washington proudly sported a silver-hilted sword that he would continue to wear throughout his life. Already deprived of his liberty by men he considered to be traitors and criminals, French was aghast that the committee sought to deprive him of the visible trappings of his martial identity as well. In his remonstrance to Washington, the major disparaged the "lower Class of Townspeople [who] took umbrage at" his strolling about the city armed" and appealed to Washington as a brother officer. After all, in Europe "it was customary for Officers (& Volunteers, being Gentlemen,) on their Paroles to be allow'd to wear their Swords." French was quite certain that Washington's "long Service & intimate acquaintance with Military Rules & Customs" would induce him to overrule the committee. Washington would clearly understand that

³⁹ Thomas Seymour to Washington. Hartford, CT. September 18th, 1775. *PGW*; Washington to French. Hartford. September 26th, 1775. *PGW*.

a European officer should "not be insulted by being oblig'd to surrender [his sword]...merely to gratify the Populace."⁴⁰

French failed to comprehend, however, the insult Gage had offered Washington over the treatment of captured American officers in Boston. By refusing to treat the Americans according to their ranks, Gage nullified the American claim to the legitimate use of military force. Beyond the pale of the customs of war in Europe, as well as the law, in the British imagination, Washington and the American army were not entitled to any of the courtesies customarily extended to enemy prisoners. In his letters of protest, French had invoked the very European customs of war denied to American officers in British custody. Washington reminded the major of the principal of reciprocity: "the Benefit of those military Rules...can only be binding where they are mutual." American officers were not only deprived of their swords, but very often their lives in the sordid conditions of Boston's jails.⁴¹

Nevertheless, Washington was unwilling to abandon his vision of "civilized" warfare. He assured French that the Americans had "shewn on our Part the Strongest Disposition to observe" the European customs of war and that his "Disposition" did not allow him "to follow the unworthy Example set me by General Gage." There would be no retaliation on the part of the Americans. Rephrasing the golden rule of reciprocity in his response to the Hartford Committee of Safety, Washington recommended "a Gentleness even to Forbearance with Persons so intirely [*sic*] in our Power. We know not what the Chance of War may be—but let it be what it will the Duties of Humanity &

⁴⁰ For the best discussion of the social, legal and cultural place of the smallsword in seventeenth and eighteenth-century England see J.D. Aylward, *The Small-Sword in England: Its History, Its Forms, Its Makers, and Its Masters* (London: Hutchinson's Scientific & Technical Publications, 1945); French to Washington. Hartford. September 18th, 1775. *PGW*.

⁴¹ Washington to French. Hartford. September 26th, 1775. *PGW*.

Kindness will demand from us such a Treatment as we Should expect from others the Case being reversed." Washington was under no obligation, however, to exceed the customary European indulgences to prisoners. After reviewing the military literature available to him, the general concluded that "the Rule with Regard to the Indulgence in Question is, that Prisoners do not wear their Swords. I therefore cannot approve of it." European military custom, not new world vengeance, dictated the case's outcome. Hardly mollified, French continued to badger Governor Trumbull and the Hartford Committee of Safety with a litany of complaints his captors deemed trivial.⁴²

For Congress, the problems of prisoner management exceeded the cavils of nettlesome officers. British prisoners were spread out in Connecticut, New York, and New Jersey, and the expense of their upkeep began to mount. Committees of Safety, often the only local governmental bodies capable of administering the prisoners, petitioned Congress for instructions, regulations, and reimbursement. Even Washington did not know how Congress wanted to proceed. In late October, he put together a list of urgent questions for Congress, several having to do with prisoners of war. "In what manner are prisoners to be treated? What allowance made them and how are they to be Cloathed?" In conference with delegates of the Continental Congress who travelled to Cambridge to meet with the general, Washington received his answer. The Congressmen

⁴² Washington to French. Hartford. September 26th, 1775. *PGW*; Washington to the Hartford Committee of Safety. Cambridge, MA. September 26th, 1775. *PGW*; A thorough examination of the European military literature available to Washington uncovered no mention the custom of officers' wearing their swords while on parole, unless specially agreed to as part of the the articles of capitulation. During the War of the First Coalition in 1793, the British general besieging the Indian city of Pondicherry offered the French Governor terms for the capitulation of his post that included a provision for captured French officers to continue wearing their swords: "With regard to the officers, they shall wear their swords, and be prisoners on their paroles of honour, reserving their private properties." Sylvanus Urban, *The Gentleman's Magazine and Historical Chronicle for the Year MDCCXCIV* (London: John Nichols, 1794) Volume 64, Part I, 82. Washington to French. Cambridge. October 25th, 1775. *PGW*; Sheldon S. Cohen, ed., "The Connecticut Captivity of Major Christopher French," *The Connecticut Historical Society Bulletin*, Volume 55, Numbers 3-4 (1990), 125-232, 127.

concurred with Washington that captured enemy soldiers should "be treated as Prisoners of War but with Humanity." They would be provided an "Allowance of Provisions" equal to that of the Continental army, and the "officers being in Pay should supply themselves with Cloathes." The Congressmen also suggested that Washington attempt to establish a cartel of exchange with General Howe. In an effort to discourage the British from arresting prominent civilian Bostonians in order to exchange them for the officers captured in Canada, Congress "agreed that the Exchange will be proper, Citizens for Citizens, but not Officers & Soldiers of the regular Army for Citizens." Any exchange that might occur would be conducted according to customary European practice: officers for officers of equal rank, soldiers for soldiers of equal rank, and civilians for civilians. British sailors, soldiers, marines, merchant mariners, and civilians captured at sea were to "be deemed Prisoners at the Disposal of the General." Washington finally had a set of guidelines for the administration of enemy prisoners. As an officer well-informed of the customs of war in Europe, none of these instructions would have been unfamiliar. But how could he apply them with little authority beyond his own army and even less ready capital?⁴³

Washington's first suggestion was to move the prisoners farther from the seat of war. In his opinion, Connecticut's exposed shores were too vulnerable to enemy raids. Britain's navy ruled the waves, and nothing was stopping Howe from sallying forth out of Boston and landing in striking distance of Hartford before Washington could mobilize

⁴³ Washington's Questions of the Committee. Cambridge, MA. Octobers 18th, 1775. *PGW*. The committee was composed of Deputy Governor Griswold and Nathaniel Wales of Connecticut, Deputy Governor Cooke of Rhode Island, Thomas Lynch, Benjamin Franklin, and Benjamin Harrison from the Continentals Congress, and James Bowdoin, Col. Otis, William Sever, and Walter Spooner from the Committee of the Council of Massachusetts Bay. Minutes of the Conference. Cambridge, MA. October 18-24, 1775. *PGW*.

any sort of resistance. The general submitted "to the Wisdom of Congress, whether, some convenient Inland Towns—remote from the Post Roads—ought not to be assign'd" for the reception of enemy prisoners. General Schuyler agreed. In a missive to the President of Congress, John Hancock, he wondered, "As the Ministry seem determined to carry on the war with spirit, would it not be advisable, as soon as there is good sledding, to remove all the prisoners from *Connecticut* to some of the interior Towns in *Pennsylvania*." Such towns would be safe from British maritime incursions and likely better able to supply the prisoners than Connecticut or New York, both of which had the added responsibility of contributing provisions for the sustenance of the Continental army around Boston.⁴⁴

Realizing that the number of British prisoners was likely to increase, Washington also proposed that "a Commissary or Agent [be] appointed to see that justice is done both to [the prisoners] and to the publick." He cautioned, "Without a mode of this sort is adopted, I fear there will be sad confusion hereafter." Disorganization would lead only to graft and wastage in his opinion. Well aware that European armies customarily established departments, or commissariats, to see to the provision, lodging, parole, and exchange of enemy prisoners, Washington impressed upon Congress the need for such a bureaucracy in the American army. The general's entreaties went unanswered. Congress was too preoccupied with the business of forming a government to systematically develop a prisoner-of-war policy. Washington was on his own for the time being.⁴⁵

Congress, however, did acquiesce to Washington's request to move the prisoners inland. Facing mounting complaints from the Connecticut Assembly, Congress resolved

⁴⁴ Washington to Hancock. Cambridge. November 8th, 1775. *PGW*; Schuyler to Hancock. Fort Ticonderoga, NY. November 27th, 1775. Force, *American Archives*, 4th series, 3:1681.

⁴⁵ Washington to Hancock. Cambridge. November 8th, 1775. *PGW*.

"that the prisoners taken at Chambly and St. John's, be sent to, and kept in, the towns of Reading, Lancaster, and York, in the colony of Pennsylvania." These locations were both far enough from the primary theatre of operations in New England and close enough to each other that prisoners could be rotated relatively easily if any one community were overburdened and incapable of providing for the soldiers and their families. Lancaster, with its large barracks complex built during the Seven Years' War, was an especially suitable location for prisoner detention. All three communities also boasted thriving local economies and demonstrative zeal for the revolutionary effort. Lancaster County alone provided eleven battalions to the war effort in the summer of 1775. Surrounded by verdant farms, these communities would have no difficulty feeding the British prisoners. From the position of legislators in Philadelphia, the Pennsylvania interior appeared to be an ideal location to house the captured Britons while General Washington negotiated their exchange.⁴⁶

Local officials were less certain. With most of the militarily-eligible men serving elsewhere, and a small but vocal loyalist community in their midst, the Committees of Safety of Lancaster, Reading, York, and Carlisle were unprepared to house and guard hundreds of ravenous, roughshod, and recalcitrant redcoats. In the words of the Lancaster committee, "We are at a loss what kind of conduct to pursue." Before the prisoners began their trek southward, John Hancock instructed the Continental Commissary General of Issues "to supply them agreeably to the Rations given to the Continental Army," but he made no provision for supplying the men once arrived. The

⁴⁶ *JCC*, 3:358. For the best account of the detention of British and Hessian prisoners of war in Lancaster see Kenneth Miller, "'Dangerous Guests': Enemy Captives and American National Identity in Revolutionary Lancaster, Pennsylvania, 1760--1783" (Ph.D. diss., University of California Davis, 2006), chapter 3, 36.

force of prisoners approaching the colony of Pennsylvania was not inconsiderable. The prisoners of the 7th Regiment included 242 officers and men as well as 60 women and children, while the 26th Regiment had 257 officers and soldiers and an additional 186 women and children. Although the population of Lancaster at the time exceeded 3,000, the arrival of nearly 750 new mouths to feed and backs to clothe was not a welcome sight. When the prisoners arrived in Bethlehem, Pennsylvania on their way to Lancaster in early December, the inhabitants "found much trouble to provide for and lodge them."⁴⁷

Understandably, the Lancaster Committee of Safety was nonplussed to learn that the Continental officer commanding the prisoners, Egbert Dumont, had "no particular orders relative to them then than to conduct them to this place." On behalf of Congress, the officer requested "the Committee to take such measures with respect to the said Prisoners as they may think most conducive to the Publick Service." Dumont's advice was little comfort to the members of the committee who knew "of no person or persons here who are appointed to supply these people with Provisions." Much like the committees in Connecticut, the committees of safety in Lancaster, York, Reading, and Carlisle, were composed of civilians with little knowledge of military affairs. They were utterly at a loss for what to do. What was the customary subsistence for prisoners of war? Who would provide it? The Reading Committee of Safety confessed that "they were much Surprised at so large a party [of prisoners] being ordered here, without any provision, notice, & without any person attending them to supply them with necessaries."

⁴⁷ Committee of Safety of Lancaster to Messrs Lynch, Lewis & Allen, a subcommittee of the Continental Congress. Lancaster, PA. December 9th, 1775. Charles Swift Riché Hildeburn Collection 1760-1777. AM 6093. HSP; Hancock to William Livingston. Philadelphia. November 17th, 1775. *PCC*, Item 12a, 1:19; Daniel Krebs, "Approaching the Enemy: German Captives in the American War of Independence, 1776-1783," (Ph.D. diss., Emory University, 2007), 214, 207; John W. Jordan, "Bethlehem During the Revolution: Extracts from the Diaries in the Moravian Archives at Bethlehem, Pennsylvania," *The Pennsylvania Magazine of History and Biography*, Vol. XII, No. 4. (Jan. 1889), 388-406, 388.

Beyond the simple necessity of feeding the men, the Lancaster committee wanted to know "whether it is expected [the prisoners] shall be kept constantly confined to the Barracks" and "whether the Officers...may be permitted to take private Lodgings in the Town." If the men needed to be confined to the barracks, a guard would be necessary to secure them properly. How would a guard be raised, who would pay their wages? The committee wanted answers.⁴⁸

With winter setting in, there was no time to wait for Congress's response. Fortuitously, Matthais Slough, a member of the committee and an innkeeper in Lancaster, volunteered "to furnish the necessary articles for the support of the prisoners" until Congress's orders on the matter could be known. A similar temporary solution was hit upon by the committee in Reading. Committeeman Henry Haller was asked "to provide Houses, Firewood & provisions for the party, who must have otherwise suffered much at this severe season."⁴⁹

Throughout Pennsylvania, housing the prisoners proved difficult. Unlike Reading, Lancaster was fortunate to possess a substantial barracks complex that was pressed into service to lodge the enlisted men. The accommodations were far too scanty for European officers so the Committee allowed the officers to take rooms "in a public House." The barracks, however, were far from an ideal detention center for the common soldiers. Built to house British and provincial troops not prisoners of war, the stone

⁴⁸ Minutes of the Lancaster County Committee of Safety. December 9th, 1775. Peter Force Papers. Series 8D, Item 86. Library of Congress; Reading Committee of Safety to the Pennsylvania Delegation to the Continental Congress. Reading, PA. February 4th, 1776. *PCC*, Item 69. Vol. 1. p. 91; Minutes of the Lancaster County Committee of Safety. December 9th, 1775. Peter Force Papers. Series 8D, Item 86. Library of Congress; Committee of Safety of Lancaster to Messrs Lynch, Lewis & Allen, a subcommittee of the Continental Congress. Lancaster, PA. December 9th, 1775. Charles Swift Riché Hildeburn Collection 1760-1777. AM 6093. HSP.

⁴⁹ Minutes of the Lancaster County Committee of Safety. December 9th, 1775. Peter Force Papers. Series 8D, Item 86. Library of Congress; Reading Committee of Safety to the Pennsylvania Delegation to the Continental Congress. Reading, PA. February 4th, 1776. *PCC*, Item 69. Vol. 1. p. 91.

edifices were not enclosed. The committee members had no means of securing the prisoners unless funds could be acquired to fence in the barracks. Emphasizing the tenuous situation to a subcommittee of Congress tasked with contracting for the prisoners' supply, the Lancaster Committee asserted: "The Peace of this Borough & good order of the Troops, we are firmly persuaded, would be much better preserved by such a Partition." The only hope to prevent escape, or worse yet insurrection, was to ensure that the prisoners were entirely separated from the local populace.⁵⁰

Given the lamentable condition of the common soldiers' clothing and quarters, keeping the pitiable prisoners away from locals inclined towards generosity was no small order. To many members of the congregations and pious communities of central Pennsylvania, the prisoners appeared to be fitting subjects for Christian charity. In Bethlehem, the Moravian community took pity on the "poor women & children" of the "Royal prisoners from Canada" by assisting them as best they could afford. Having marched from Canada rather than traveled by sea, the common soldiers were in even greater need. The men's uniforms were in utter disrepair, and they were almost entirely without winter clothing or heavy blankets. The Lancaster Committee wrote Congress "that the Captive Soldiers here are in great Distress for want of Breeches, shoes & stockings...their other cloathing [*sic*] is bad." The prisoners had endured a precipitous march of over five hundred miles without resupply. The soles of their shoes and threads of their stockings would have worn thin. When confined at Trenton, New Jersey before being transferred to Pennsylvania, nineteen men of the 7th Regiment reported having lost eighteen pairs of breeches, 26 shirts, 30 pairs of shoes, and 33 pairs of stockings on the

⁵⁰ Committee of Safety of Lancaster to Messrs Lynch, Lewis & Allen, a subcommittee of the Continental Congress. Lancaster, PA. December 9th, 1775. Charles Swift Riché Hildeburn Collection 1760-1777. AM 6093. HSP.

march. Because they left Canada before their 1776 issue clothing arrived from England, Major Stopford reported "there, is, likewise, a whole year's clothing lost." Facing a Pennsylvania winter without resupply, the prisoners' fate looked bleak. The Lancaster Committee reported to Congress that barracks only had "about 165 old Blankets, almost worn out." Although they were able to scrounge "72 new ones" at the Public Expense, the committee assured Congress that "the whole serve as a scanty covering for the soldiers against the Rigours & Inclemency of the Season." Apologizing for their "Importunity, and the Trouble we give you," the committee members pointed to the hardships of their "particular Situation." Something had to be done, or the men and their families might not survive the winter.⁵¹

Pressed by committees of safety in Pennsylvania, New Jersey, and Connecticut for a standardized method to supply the prisoners, Congress looked to European precedent for guidance. As Washington had earlier advised, European countries at war customarily established commissary officers and assistants to see to the provisioning and lodging of their captured enemies. A statement of the expenses of their upkeep would then be presented to the enemy's commissary for reimbursement. Very often, opposing armies would appoint contractors—usually successful merchants—to reside near detention sites in order to best victual the prisoners. Much like the treatment of prisoners of war more broadly, this informal system was predicated upon the principal of reciprocity. Shorting enemy prisoners of their allotted provisions and necessities was not

⁵¹ "Notes from the Bethlehem Diary." January 30th, 1775. Charles Swift Riché Hildeburn Collection 1760-1777. AM 6093. HSP; Committee of Safety of Lancaster to Messrs Lynch, Lewis & Allen, a subcommittee of the Continental Congress. Lancaster, PA. December 9th, 1775. Charles Swift Riché Hildeburn Collection 1760-1777. AM 6093. HSP; "Return of Clothing, Necessaries, &c., that was lost, belonging to the Prisoners of His Majesty's Seventh Regiment of Royal Fusiliers." Trenton, NJ. January, 1776. Force, *American Archives*, 4th series, 4:817; Lancaster Committee of Safety to the Continental Congress. January 10th, 1776. Charles Swift Riché Hildeburn Collection 1760-1777. AM 6093. HSP.

only dishonorable, it was unwise. Retaliation in kind would likely follow. Armies insisted on fastidious record-keeping to guarantee equitability and prevent graft. With no prospect of an exchange on the horizon, Congress resolved on December 1st to allow David Franks of Philadelphia "to supply the troops, who are prisoners in this Colony, with provisions and other necessities, at the expence [*sic*] of the crown." Franks had risen to prominence among Philadelphia merchants for his role in provisioning British and provincial troops during the Seven Years' War. In light of his past experience working with British quartermaster officers, Franks was the logical choice.⁵²

Washington was relieved to hear of Franks's appointment, noting "it will Save me much time & much trouble." As commander in chief of the Continental forces, Washington was constantly petitioned by enemy prisoners with requests for indulgences, exchanges, and provisions. Exasperated, he informed Hancock, "I am applied to and wearied by their repeated requests." Without an established commissary of prisoners, however, all Washington could do was ask the various local committees overseeing prisoners to do their best to meet the prisoners' needs. Franks's employment as agent contractor to the British prisoners was a step in the right direction, but one man could not superintend the growing numbers of prisoners in American hands. The general once again strongly suggested that Congress adopt the European mode of appointing a commissary of prisoners. This time Washington pointed out that such a commissary would reduce the expense of prisoner management by preventing "many exorbitant charges" and ensuring that greedy farmers or war profiteers did not take pecuniary

⁵² *JCC*, 3:399. For the best account of David Franks' involvement with the provisioning of prisoners of war see Mark Abbot Stern, *David Franks: Colonial Merchant* (University Park, PA: The Pennsylvania State University Press, 2010), chapter 2.

advantage of the prisoners' distressed situation. Evincing a lack of foresight unremarkable for a collection of novices, Congress demurred.⁵³

The British, on the other hand, were surprisingly cooperative. Washington was not the only general who had received countless complaints and petitions for redress; Howe was equally perturbed by the prisoners. The British general was under strict orders from Lord Germain not to "enter into any treaty or agreement with Rebels for a regular cartel for exchange of prisoners," but he was likewise requested "to procure the release of such of His Majesty's officers and loyal subjects as are in the disgraceful situation of being prisoners to the Rebels." Provided he did not impugn "the King's dignity and honour" by invoking his name in communication with rebels, Howe was free to negotiate for the relief or release of British prisoners. He acquiesced to Franks's appointment as contractor, and ordered his commissary-general of stores and provisions to issue instructions for the provisioning of the prisoners captured in Canada. The arrival of British foodstuffs and other necessities must have been a welcome sight in the Pennsylvania interior.⁵⁴

Howe, however, did not make provision for the prisoners' families also in confinement. His position surprised not only the American committees tasked with their care, but also the women and children who were customarily entitled to half-rations as civilians "on the strength" of their regiments. In the eighteenth century, wherever the British army marched, women and children followed. By 1775, soldiers' wives, known as camp followers, were an integral part of the British military machine, providing

⁵³ Washington to Hancock. Cambridge, MA. February 9th, 1776. *PGW*; Washington to Hancock. Cambridge, MA. February 14th, 1776. *PGW*.

⁵⁴ Germain to Howe. Whitehall. February 1st, 1776. Force, *American Archives*, 4th series, 4:902; Stern, *David Franks*, 117.

essential support services and logistics. In return for their labor as laundresses, seamstresses, sutlers, and nurses, these women and their children were entitled to join their husbands' messes and draw half-rations from the regiment. Hardly the rowdy trollops of popular imagination, these women toiled side by side their uniformed husbands and were equally subject to martial law. Quite rightly, they were appalled that Franks refused to feed them. According to the Lancaster committee, Franks gave "express orders not to deliver out any allowance of meat or Bread to the soldiers['] wives or children for the future." Franks's contract with the British quartermaster stipulated that he supply the prisoners of the 7th, and 26th regiments, as well those prisoners of the Royal Highland Emigrants and the Royal Artillery. Strictly interpreting his orders, lest he should be stuck with a bill that the British government refused to reimburse, Franks denied the women's request for provisions.⁵⁵

The Pennsylvania committees now had over two hundred women and children in custody entirely dependent upon their captors for sustenance. In a letter to Congress justifying their decision to supply the soldiers' families "at the Expense of this country," the Lancaster committee invoked the European principle of humanity in warfare. "Being mindful that Humanity ought ever to distinguish the Sons of America & that Cruelty should find no admission amongst a free People, we could not avoid considering the situation of the Women & Children as pitiable indeed." Positioning themselves as

⁵⁵ John Hancock to the Lancaster Committee of Safety. Philadelphia, PA. January 18th, 1776. Force, *American Archives*, 4th series, 4:761; See Holly A. Mayer, *Belonging to the Army: Camp Followers and Community During the American Revolution* (Columbia: University of South Carolina Press, 1996), 8-9; Lancaster Committee of Safety to the Continental Congress. January 10th, 1776. Charles Swift Riché Hildeburn Collection 1760-1777. AM 6093. HSP; Stern, *David Franks*, 117.

humane, in stark contrast to the cruelty of British indifference, the Lancaster committee reaffirmed their commitment to conducting war with moderation and humanity.⁵⁶

Their conduct met with the approbation of both Congress and the captured British officers. The prisoners praised the committee's "humanity" for assisting the distressed women and children as well as "other civilities." John Hancock fully approved "of those humane sentiments which induced [the committee] to provide for [the women and children] in their distress" and promised reimbursement. Reiterating Congress's position on the treatment of prisoners of war, Hancock praised the committee for rendering "the situation of our prisoners as comfortable as possible...As men, they have a claim to all the rights of humanity; as countrymen, though enemies, they claim something more." The rights of humanity, in Hancock's opinion, protected any "civilized" soldier from the cruelties of unrestrained warfare, but these prisoners were not French, Spanish, or Dutch, they were brother Englishmen. Hancock was adamant that the revolutionaries should go out of their way to perform the customs of "civilized" warfare in order to prevent the conflict from devolving into the barbarism of civil war. As long as the revolutionaries stridently maintained the appearance of legitimacy, the British would eventually see the justice of their grievances and a peaceful settlement would be within reach. In Hancock's opinion, this required a rigorous attention to the customs of war.⁵⁷

Many of the captive British officers, however, sought to exploit Congress's inexperience at war to their advantage. Hoping to catch the civilian legislators unaware of the finer points of military capitulations, they asserted that the Pennsylvania

⁵⁶ Lancaster Committee of Safety to the Continental Congress. January 10th, 1776. Charles Swift Riché Hildeburn Collection 1760-1777. AM 6093. HSP.

⁵⁷ Officers of the 7th, 26th, and Royal Highland Emigrant regiments to John Hancock. Lancaster, PA. January 20th, 1776. Force, *American Archives*, 4th series, 4:801; John Hancock to the Lancaster Committee of Safety. Philadelphia, PA. January 18th, 1776. Force, *American Archives*, 4th series, 4:761.

committees had violated the terms of surrender for Chambly, St. John's, and Montréal by billeting them away from their enlisted men. The Lancaster Committee reported to Congress that the officers "complain greatly of a Separation from their Soldiers as Breach of Genl. Schuyler's solemn Engagement." As justification for their remonstrance, the officers argued that they had to remain in close proximity to their soldiers in order to superintend the distribution of clothing and salary. They claimed that "Justice cannot be done to the Privates...unless the officers are upon the spot." Lancaster, however, lacked suitable accommodations for all of the officers. In order to ease the burden on the city's inhabitants, Congress resolved "That the officers be distributed in such places as are most agreeable to themselves...officers and privates be not stationed in the same places."⁵⁸

This resolution was hardly agreeable to the officers, but not simply because of the reasons they outlined. Ever since the prisoners had arrived in Pennsylvania, Continental army recruiters had covetously eyed the expertly drilled and disciplined redcoats. Not at a loss for recruits that winter—Pennsylvania like her sister colonies was in the throes of what Charles Royster has called a *rage militaire*—the Continental army was in dire need of experienced non-commissioned officers who could transform farmers, apprentices, and shopkeepers into disciplined regulars. Colonel Arthur Sinclair of the Continental army admitted to John Hancock that one of his officers had enlisted a Sergeant and a Drummer belonging to the 26th Regiment. He explained that "It is rather my sentiment that the inlisting [*sic*] the prisoners is improper; but as we were much in want of sergeants and drums" the men were allowed to join the Continentals. The officers of the 26th were furious. They feared that if they were removed from their men, American recruiters

⁵⁸ Lancaster Committee of Safety to John Hancock. December 21st, 1775. *PCC*, Item 69, p. 45; Resolve of Congress. December 16th, 1775. *JCC*, 3:434.

would abscond with their entire regiment. Claiming that the articles of capitulation had been violated, the officers of both the 7th and the 26th regiments refused to sign their paroles. By asserting that the Americans had violated the articles, the officers hoped to bully Congress into obtaining quarters for them close to their men in the comparatively more cosmopolitan Lancaster.⁵⁹

Amateurs though they were, the American legislators were in the right. Only the terms for the capitulation of Chambly included an article that stipulated that "The men not to be decoyed from their Regiment." The soldiers of the 7th Regiment who surrendered with Major Stopford were thus off limits to American recruiters, but the men of the 26th and those soldiers of the Royal Artillery, Royal Highland Emigrants, and members of the 7th captured with General Prescott were all fair game. None of the articles of capitulation for Chambly, St. John's, or Montréal guaranteed that the officers would remain with their men. Perhaps unbeknownst to him, St. Clair had wisely recruited only members of the 26th regiment captured at St. John's. Recruiting enemy prisoners was a commonplace practice in European warfare, and unless specifically forbidden in the articles of capitulation was condoned and expected. Enlisting prisoners obviated the need to confine and subsist non-productive soldiers, swelled the ranks of one's army with trained and disciplined troops, and denied the enemy that manpower. Over one-fifth of the French and Bavarian prisoners captured at Blenheim in 1704 joined the British and allied forces in the aftermath of the battle. Similarly, in 1756, Frederick

⁵⁹ Royster, *A Revolutionary People at War*, chapter 1; Col. Arthur Sinclair to Hancock. Lancaster, PA. January 27th, 1776. Force, *American Archives*, 4th series, 4:867; Lancaster Committee of Safety to Hancock. January 25th, 1776. Force, *American Archives*, 4th series, 4:801; British enlisted prisoners proved useful in the training of American soldiers. John Andrews, "a prisoner of war, taken at *St. John's*," petitioned the Provincial Congress of New York for his release from confinement in the Morristown Jail on account of his having "disciplined two battalions of Provincial troops." Force, *American Archives*, 5th series, 2:830.

the Great recruited 18,000 Saxon troops into his army upon their defeat. Knowing that their arguments were not based in European precedent, the British officers hoped that Congress would defer to their superior knowledge and experience in military affairs.⁶⁰

Congress was not intimidated. President Hancock informed the Lancaster committee that the officers' "complaint, that a separation from the soldiers is a breach of General Schuyler's solemn engagement, we apprehend not to be well-rounded." While he agreed with the officers that "All stipulations of a capitulation ought, undoubtedly, to be held sacred, and faithfully fulfilled...no such stipulation is found in the capitulations upon which those gentlemen surrendered." Had their complaints been legitimate, Congress would eagerly have complied with their requests, but the revolutionaries would not be browbeaten. As in any "civilized" conflict, the articles of capitulation would be enforced. Nevertheless, Hancock placated the prisoners by permitting "two or more of the officers to come, at proper times, from their places of residence to *Lancaster*, for the purpose of settling with, and paying, their soldiers." Congress would hear of no further challenge to its authority. If the officers did not want to submit to the terms of their parole, Congress "shall be extremely sorry to be reduced to the necessity of confining them in prison." Predictably, the officers backed down.⁶¹

Cowed but not appeased, the officers remained dissatisfied. With few diversions other than food, drink, or amorous companionship, they quickly exhausted their ready cash in the pursuit of pleasure and began accruing ruinous debts. Initially Congress

⁶⁰Articles proposed by Major Stopford for the capitulation of Chambly. Force, *American Archives*, 4th series, 3: 1133; Peter H. Wilson, "Prisoners in Early Modern European Warfare," in Scheipers, ed., *Prisoners in War*; Bell, *The First Total War*, 45.

⁶¹Hancock to the Lancaster Committee. Philadelphia, PA. January 18th, 1776. Force, *American Archives*, 4th series, 4:761; Congress's response to the Complaints and Demands of the British Officers, prisoners at Lancaster. Force, *American Archives Series*, 4th series, 4:801.

promised to reimburse the innkeepers and tavern owners for the officers' expenses, but the prisoners' "exceedingly extravagant" lifestyle quickly became untenable. Shocked by the mounting bills, Congress resolved to allot the men two dollars per week to defray the costs of their room and board, on the condition that the sum was repaid upon their release. Blaming the Americans for their financial woes, the officers complained that because they were quartered in taverns on their march to Pennsylvania, they were "under the necessity of living in a more expensive manner than they otherwise would have done." Although they appreciated Congress's gesture, two dollars a week was "so inadequate to the manner which they, as gentlemen and *British* officers, have been accustomed to live in."⁶²

Even in captivity, European officers were expected to maintain the trappings of gentility. The prisoners entertained generously and frequently, each trying to outdo the other. Such lavish lifestyles were unsustainable for many. The more impecunious officers lived in fear "of being turned out of doors" by their creditors. Although they agreed to draw bills of exchange in the hope that the British government would cover their expenses, they were not sanguine. The Lancaster committee took pity on the poverty-stricken officers and induced "some of the inhabitants to afford them private lodgings...where they lodged and breakfasted." Justifying their actions to Congress, the committee invoked the prisoners' status as fellow gentlemen: "To gentlemen in that delicate situation, though enemies, we could not avoid rendering every service in our power...We could not be idle spectators of the distresses these gentlemen were reduced

⁶² Congressional Regulations for the Subsistence of the Officers. Philadelphia, PA. January 12th, 1776. Force, *American Archives*, 4th series, 4:1640; Officers of the 7th, 26th, and Royal Highland Emigrant regiments to John Hancock. Lancaster, PA. January 20th, 1776. Force, *American Archives*, 4th series, 4:801.

to." Congress was unmoved. The allotment was generous; the officers could "refuse it or add to it on their own account, as they please."⁶³

Disgruntled, haughty, and expensive, the officers soon wore out their welcome. When British officers quartered in Connecticut outwardly celebrated an American defeat in late December, a crowd of townspeople gathered with the intention of punishing the officers who had "come there to make merry and rejoice at their Misfortune." As the crowd grew more agitated, the officers, including the ever-aggrieved Major French, feared for the lives. Thankfully, the officers' landlady was able to reason with the crowd, convincing them to disperse, "happily without blood Shed." Later that winter, however, these officers and several townsmen exchanged "some Blows" because they refused to abandon their riotous singing and cavorting. Fortunately, several American officers interceded and prevented the brawl from escalating.⁶⁴

Captured British officers were no more popular in Pennsylvania than they were in Connecticut. Captain W. Home of the 7th regiment remembered that he was "frequently insulted" during the ten months of his confinement in Reading. Upon being moved to Lebanon, he was "not only insulted but threatened." When the officer complained of the illiberal usage he received from the townspeople, a member of the local committee apologized but admitted that he "durst not interfere, least he himself should be treated in the same manner." Many Americans were unimpressed by the revolutionary leadership's vision of war. Instead of seeing gentlemen officers who deserved to be accorded respect,

⁶³ The Lancaster Committee of Safety to Hancock. Lancaster, PA. April 11th, 1776. Force, *American Archives*, 4th series, 5:848; Officers of the 7th, 26th, and Royal Highland Emigrant regiments to John Hancock. Lancaster, PA. January 20th, 1776. Force, *American Archives*, 4th series, 4:801. See also Laura Becker, "Prisoners of War in the American Revolution: A Community Perspective," *Military Affairs*, vol. 46, no. 4 (Dec., 1982), 168-173 and the journal of Christopher French. Manuscript Division. CHS.

⁶⁴ The Journal of Christopher French, CHS.

politeness, and deference during their captivity, they saw tangible evidence of British tyranny and corruption. The longer the prisoners lingered in captivity, the greater the tensions grew.⁶⁵

Although vexing, the officers posed little actual threat to the revolutionary effort or to the communities that housed them; the common soldiers, on the other hand, were dangerous. Confined to their quarters, unable to work or drill, the idle soldiers were "active, restless, and uneasy" in the estimation of one Lancaster resident. Were they to band together, even unarmed, the enlisted prisoners might easily overwhelm the county's meager collection of soldiers. By early January 1776, the Lancaster Committee found it "absolutely impossible to preserve the Peace & good Order of this Borough" without the assistance of Congress in the form of more specific regulations for their management and security. Lacking congressional instructions and fearing insurrection, they appointed "a Serjeant & 12 Privates to mount Guard at the public Magazine every Evening" to prevent powder and arms from falling into the hands of the prisoners. The watchmen were instructed to patrol "the Street every two Hours in the Night to prevent Disorders." Despite their precautions, "disturbances" between the British prisoners and local civilians could not be avoided. Congress had no troops or funds to spare for the Pennsylvania committees. The best they could do was to authorize the committees to confine unruly prisoners in "in cases of gross misbehavior."⁶⁶

⁶⁵ Narrative of Captain W. Home of the Royal Fusiliers. Carleton Papers. Microfilmed copies in the DLAR. Reel 3, No. 339.

⁶⁶ Jasper Yeates to the Pennsylvania Committee of Safety. March 29th, 1776. Charles Swift Riché Hildeburn Collection 1760-1777. AM 6093. HSP; Lancaster Committee of Safety to John Hancock. Lancaster, January 3rd, 1776. *PCC*, Item 69, p. 55; Miller, "Dangerous Guests," 70; Resolve of Congress. Philadelphia, PA. February 28th, 1776. Force, *American Archives*, 4th series, 4:1689.

Without a stockade to enclose the barracks or well-armed guards, Congress's resolve lacked teeth. The situation in Reading was even more serious because the town was devoid of suitable barracks; the prisoners were lodged in private homes. Inhabitants of the town implored the Pennsylvania Assembly to remove their burden by constructing secure barracks. They feared that "from the idleness of the said Prisoners' manner of living, they will probably become disorderly." In a similar vein, the Pennsylvania Committee of Safety worried that "the kind Treatment given them [the prisoners] meets with a very improper & indecent Return." The prisoners "often express themselves in most disrespectful & offensive Terms and openly threaten Revenge whenever opportunity shall present." Drawing on both European precedent and the experience of the British prisoners during their captivity in Connecticut, the Pennsylvania committee suggested that the prisoners be "dispersed among the Farmers, in the Country where their opportunities of doing Mischief will less correspond with their inclinations." Spread out through the countryside and industriously engaged, the prisoners would be both neutralized as a threat and as a drain on Continental coffers. Congress concurred.⁶⁷

Many of its constituents, however, balked at the liberal conditions of the Britons' confinement. As lurid accounts of Ethan Allen's treatment at Carleton's hands circulated through the colonies, popular outrage began to focus on British prisoners. Here were ready targets for retaliation, yet revolutionary American military and civilian authorities appeared unable to back up their threats with action. Exasperated by Congress's torpor,

⁶⁷ Petition from the Inhabitants of the Town of Reading. Philadelphia, PA. March 6th, 1776. Force, *American Archives*, 4th series, 5:675; The Pennsylvania Committee of Safety to Hancock. Philadelphia. February 20th, 1776. PCC, Item 69, p. 95.

Governor Trumbull entreated General Schuyler: "They have carried off the unhappy prisoners, it is said, in irons. Is it not time to retaliate?"⁶⁸

By December 1775, George Washington was inclined to agree with Trumbull. He warned General Howe "that whatever Treatment Colonel Allen receives—whatever fate he undergoes—such exactly shall be the treatment & Fate of Brigadier Prescott [*sic*], now in our hands." Nevertheless, the American general had great respect for his British counterpart. Howe's politics were known to lean decidedly whiggish, and his courage in combat at the siege of Louisbourg and the Plains of Abraham during the French and Indian War was the stuff of legend. Appealing to Howe as "a man of Honour, Gentleman & Soldier," Washington was confident that Howe would relieve the prisoners who Carleton had "treated without regard to decency, humanity, or the rules of War." If Howe ignored his pleas, Washington reiterated his intention to invoke "The Law of retaliation," which was "not only justifiable in the Eyes of God & man, but absolutely a duty which in our present circumstances we owe to our Relations Friends & fellow Citizens." In the past, the British had ignored Washington's threats, which in turn had proved empty.⁶⁹

With the tide of public opinion turning against the British prisoners, and ordinary revolutionaries demanding justice for Allen's torments, Congress reassured its constituents that "whenever retaliation may be necessary, or tend to their security, this Congress will undertake the disagreeable task." Congress, however, cautioned "the inhabitants of these Colonies" from confusing retaliation with vengeance. The law of

⁶⁸ Trumbull to Schuyler. Lebanon, CT. March 21st, 1776. Force, *American Archives*, 4th series, 5:454.

⁶⁹ Washington was unabashed in his praise of Howe: "Permit me to add Sir that we have all here the highest regard & reverence for your great personal Qualities & Attainments, and that the Americans in general esteem it not as the least of their misfortunes, that the name of Howe—a name so dear to them—should appear at the head of the Catalogue of the Instruments, employed by a wicked ministry for their destruction." Washington to Howe. Cambridge. December 18th, 1775. *PGW*.

retaliation might justifiably be invoked to ease the sufferings of their captured comrades, but Americans must continue to be "mindful that humanity ought to distinguish the brave; that cruelty should find no admission among a free people." The revolutionaries had entered the conflict under the assumption "that our enemy was brave and civilized" and thus would agree that "an enemy is an object of vengeance in arms and in the field only." But the previous year of escalating conflict had proven that British "enormities" in their conduct of the war were a reflection of that kingdom's "execrable barbarity." Rather than stoop to their level, the revolutionaries must "take care that no page in the annals of *America* be stained by a recital of any action which justice or Christianity may condemn." Ever concerned with the opinion of posterity, and the still present possibility of reconciliation with Britain, the revolutionary leaders continued to insist upon justice and humanity toward enemy prisoners. They hoped that the American conduct of the war would resound through the ages, proclaiming the righteousness of their cause.⁷⁰

From his English prison cell in Pendennis castle awaiting the vengeance of the British crown, Ethan Allen must have been little concerned with the judgment of posterity. Curious visitors to the prison were all of the opinion that he would soon be hanged. Although his jail keeper "was very generous," he "was treated as a criminal...and continued in irons, together with those taken with me." He wanted Congress to embrace retaliation on British prisoners, "not according to the smallness of my character in America, but in proportion to the importance of the cause for which I suffered." Fortunately for Allen, because he was considered a criminal rather than a

⁷⁰ In its January 2nd Resolution, Congress established the principle of proportional retaliation, but it did not adopt Thomas Jefferson's suggestion to treat General Prescott in the same manner as the British treated Allen. Resolves of Congress. January 2nd, 1776. *JCC*, 4:21, 22, 21. See also, Jefferson's "Draft of a Declaration on the British Treatment of Ethan Allen." January 2nd, 1776. *PTJ*.

prisoner of war, he was subject not only to the penalties of English civil law but also to the protections. Several members of Parliament, inclined to the American cause, obtained a writ of habeas corpus demanding formal charges be levied against him. Uninterested in the expense, time, and negative publicity, of trying every American rebel who fell into their hands, the British ministry shipped Allen back across the Atlantic beyond the grasp of sympathetic lawyers.⁷¹

Allen's fortuitous escape from the hangman's noose did little to conciliate those revolutionaries who called for retribution. If British prisoners were not brought to account for the transgressions of their government, what would prevent the British from continually violating the customs of war? A petitioner to Congress, writing under the apt pseudonym "Justice," begged Congress to "retaliate for the barbarous injuries which any of your officers or men (who fell into the hands of the enemy) might receive in the present war." Pointing to Allen's treatment by General Prescott, the petitioner suggested Congress "make retaliation on Prescott [*sic*] and others, that those Americans in their hands may be treated better by them." Such a just retaliation would serve as "evidence that the American Congress holds faith with their people." A columnist for the *Essex Gazette* enunciated the prevailing opinion among the radical revolutionaries:

"How different the situation of ALLEN and Prescott;—the First, taken fighting for Life, Liberty and Property, is treated as a villain; while the other, taken fighting to support the cruel edicts of a tyrannical ministry, whose aim is to rob and enslave, is lodged at a first rate tavern in this city, and fed with the best the markets afford.—Oh! George! who is the savage?—After this, can any man blame the Americans should they retaliate?

⁷¹ Allen, *A Narrative*, 40, 38, 39.

Facing mounting pressure for decisive action, Congress had little choice but to investigate the charges of General Prescott's complicity in Allen's treatment.⁷²

After a thorough inquiry by a committee tasked with discovering Prescott's involvement in the circumstances of Allen's captivity, Congress concluded that Prescott was guilty of "great Malevolence and bad Behavior to our People." After a vote of eight colonies to two, Congress ordered him securely confined in the Philadelphia jail. Prescott's treatment of Allen and other prisoners violated the revolutionaries' conception of the legitimate practice of warfare. The violence he employed against the Americans was unjustified cruelty that warranted punishment. On January 29th, the British general was turned over to the custody of the keeper of Philadelphia's new jail. With evident glee, a Philadelphia newspaper reported Prescott's removal "from his apartments in the city tavern" to the stark surroundings of the jail house.⁷³

On the surface, Congress's resolve appeared to be just the sort of retaliation the hardliners called for; but in reality, Prescott's confinement was hardly stringent. Congress granted him "the attendance of his servant, and in case his health requires it, that he be allowed the attendance of a physician." Although he was denied freedom of the jail yard, Prescott was permitted "to receive Visits from his Bror. Officers and to have Pen Ink and Paper." On February 5th, after seven nights in confinement, Congress ordered Prescott removed "from the jail of this city to some private lodgings" on account of a recommendation from his surgeon that the jail was not conducive to his health. Congress "indulged" Prescott with the "Liberty to take Lodgings in the City Tavern"

⁷² "Petition to the Honorable Continental Congress" published in *The Connecticut Gazette*, April 19th, 1776; *Essex Gazette*, March 28th, 1776.

⁷³ *LMCC*, 1:326, 333; *JCC*, 4:101. See also Hancock to Washington. Philadelphia. January 29th, 1776. *PGW*; *Philadelphia Evening Post*, February 1st, 1776.

among the company of several of his officers. Upon recovering his health, Congress ordered Prescott to the Pennsylvania interior along with the rest of the Canadian prisoners. The legislators had evidently lost their taste for retaliation; if they had ever had the stomach for it in the first place.⁷⁴

Despite numerous allegations that Prescott had mistreated American prisoners, the British officer continued to enjoy a lenient captivity. One of his former captives, Thomas Walker, journeyed to Philadelphia from Montréal for the express purpose of obtaining "some satisfaction for such inhuman violence" on Prescott's part. Walker hoped to see Prescott pay for the "indignity and sufferings" he had caused. Instead of finding Prescott confined in irons in a dank cell, he witnessed "Mr. *Prescott* lodged in the best tavern of the place, walking or riding at large through *Philadelphia* and *Bucks* Counties...feasting with gentlemen of the first rank in the Province." Congress offered Walker no redress. Prescott and several other officers rented a house in Berks County where they were allowed to stay despite orders to remove the British officers to Carlisle. The Lancaster committee did not want "to put them to any unnecessary hardship."⁷⁵

Unsatisfied with the haphazard and generous treatment of British prisoners, many Americans pressed Congress for a formal policy that reflected British outrages. They must have been displeased with Congress's response. On May 21st, 1776, Congress officially codified the practices of the Connecticut and Pennsylvania committees by establishing a formal set of regulations for the administration of enemy prisoners. These

⁷⁴ *JCC*, 4:107; *LMCC*, 1:337; Amos Wilkinson to Hancock. Philadelphia Barracks. February 7th, 1776. *PCC*, Item 58, p. 209; *LMCC*, 1:440.

⁷⁵ Deposition of Thomas Walker. Philadelphia. April 24th, 1776. Force, *American Archives*, 4th series, 4:1176; "Remarks on the difference in the treatment of Colonel Allen, Mr. Walker, and General Prescott." Philadelphia. April 26th, 1776. Force, *American Archives*, 4th series, 4:1178; Lancaster Committee to the Berks County Committee. May 9th, 1776. Charles Swift Riché Hildeburn Collection 1760-1777. AM 6093. HSP.

regulations, which were based on their knowledge of "the Custom in England and France" for the treatment of prisoners, would remain officially in force for the remainder of the conflict. All captured enemy soldiers were "to be treated as prisoners-of-war, but with humanity." While in captivity, common soldiers would be "allowed the same rations as the troops in the service of the United Colonies" and "permitted to exercise their trades, and to labour, in order to support themselves and families." Officers, as gentlemen and men of honor, were entitled to "be put on their parole" and to draw two dollars a week for their subsistence and lodging. In addition to the congressional loan, they were permitted to sell their bills of exchange so that they might live as comfortably as their credit would allow. Not keen to be stuck with a bill for the prisoners' support, Congress officially placed the responsibility for provisioning the soldiers on British contractor David Franks. In the event of his refusal to comply, Congress made provision to supply both the men and "the women and children belonging to the prisoners" with "subsistence...and other things absolutely necessary for their support." Surprisingly, Congress stipulated that "no prisoners be inlisted [*sic*] in the Continental Army." Either out of deference to the articles of capitulation for Chambly or from the realization that British prisoners were more likely to abscond with their bounty money than face the very real chance of execution if they ever fell into their countrymen's custody, Congress officially forbade the army from indulging in the customary European practice of enlisting prisoners.⁷⁶

⁷⁶ *Connecticut Gazette*, April 19th, 1776. These regulations were based on a very careful analysis of the British treatment of French prisoners during the Seven Years' War. The committee tasked with establishing them noted, however, that "England ought to be Oblige'd to Acknowledge us as an independent State, at least so far as respects prisoners of War. Otherwise the treatment she shews to Our Soldiers or Seamen in her hands, ought to be exactly Observed upon Our part, to those we take Prisoners from them." *JCC*, 4:361-62 n. 4, 370-73.

Perhaps most importantly, Congress empowered local authorities, in the form of assemblies, conventions, committees, or councils, to "remove such prisoners from place to place, within the same Colonies, as often as...it shall seem proper." Here Congress diverged from customary European practice again. Because the revolutionaries were ideologically constrained from establishing a centralized government with the power to raise revenue through taxation, Congress was forced to rely on individual colonies to supervise the prisoners. Had the colonies been able to fund a highly developed military bureaucracy, such as Britain's War Office, they might have established permanent prisoner-of-war detention facilities far from the seat of conflict. As it was, Congress had to depend on the generosity and loyalty of small communities to support the prisoners. Given this reliance, Congress had little choice but to allow the individual colonies autonomy over the location of the prisoners' confinement. If the prisoners became too burdensome on the people of Lancaster for instance, Pennsylvania could remove them to Carlisle or York provided they paid attention to the "former Resolutions of Congress concerning Prisoners" that guaranteed their humane and uniform treatment. This provision, though unavoidable in Congress's position, opened the door to infraction, neglect, and maltreatment. Although Congress appointed a commissary for each of the three military departments "to superintend and take the Direction and supplying of such Prisoners...as nearly conformable as the Circumstances of this Country will admit of, to the custom of other civilized Nations," with the prisoners' management in the hands of the individual colonies, Congress was powerless to prevent local conditions from trumping national policy. As the war progressed, these shortcomings had a profoundly

deleterious effect on the treatment of enemy prisoners. The dictates of humanity did not always accord with individual liberty.⁷⁷

"A disgraceful capitulation": The Ordeal at the Cedars and the Failure of the Fourteenth Colony

Unlike the British prisoners who enjoyed warm bunks in the barracks, taverns, and dwelling houses of central Pennsylvania, the American northern army passed the winter of 1775-1776 in the ardent, and often futile, pursuit of survival. After the initial victories over the British positions at Chambly, St. John's, and Montréal, the American juggernaut stalled in front of the gates of Québec. In early December, Montgomery's army joined forces with the smaller force under Benedict Arnold that had advanced up the Kennebec and Chaudière rivers to descend on Québec from the east. Carleton's position looked desperate. Without reinforcements from England, his trifling force of remaining regulars and Canadian militia would soon share the fate of Montréal. Montgomery, however, was less confident. Arnold's force had suffered severe losses on the trek northward, and many of his own soldiers' enlistments would expire at the end of the year. Fearing the arrival of British troops in the spring and the disintegration of their own army, Montgomery and Arnold launched an abortive assault on the city on the snow-covered evening of December 31st. Before morning, Montgomery lay dead, Arnold was severely wounded, and over 400 American soldiers were killed or captured. The remaining American troops fled to their encampments in disarray. Stubborn to the point

⁷⁷ The original draft of the congressional resolution suggested that the prisoners' treatment should conform "as nearly conformable as the Circumstances of this Country will admit of, to the Custom of England and France." May 16th, 1776. *JCC*, 4:361, 370-73.

of obstinacy, Arnold refused to abandon the quest for Canada. The American forces continued a half-hearted and ineffectual siege of the city throughout the winter.⁷⁸

While recovering from his wound, Arnold was gravely concerned about the fate of his captured men in Québec. He had earlier attempted to establish formal communication with the Québec garrison to negotiate the exchange of prisoners of war. In mid-November, Arnold sent an officer to treat with Lieutenant-Governor Hector de Cramahé on the issue. Assuming that his envoy would be protected by a flag of truce, Arnold dispatched the officer to the city's gates, according to European custom, with a drummer beating the parlay. Cramahé scoffed at the rebels' show of martial etiquette and ordered his men to fire on the party who only "narrowly escaped being killed." Fulminating, Arnold declared Cramahé's actions "Contrary to humanity and the laws of nations" and demanded to know if his prisoners were being held in "irons." He reminded the lieutenant-governor that he had several British prisoners, "who now feed at my own table," and threatened that they "will be treated in the same manner, in future, as you treat mine." According to the laws of war in Europe, proportional retaliation was not only sanctioned but also required in such instances. To Cramahé, Arnold and his men were rebels; negotiating with them would have legitimated that rebellion. There would be no further discussion.⁷⁹

In the aftermath of the December 31st assault, Arnold could ill-afford to be so bold. When the smoke of battle cleared, Carleton possessed "The Flower of the rebel army" in his custody. How would the governor treat these men? Would they be confined

⁷⁸ Hatch, *Thrust for Canada*, Chapter 6; Martin, *Benedict Arnold*, chapter 7.

⁷⁹ Benedict Arnold to Lieutenant-Governor Hector Cramahé. Québec. November 15th, 1775. Force, *American Archives*, 4th series, 3:1685. For further discussion of this incident, see Hatch, *Thrust for Canada*, 116.

in irons and shipped to England to suffer the judgment of British justice? Perhaps remembering Montgomery and Arnold's former threats of retaliation, or moved by the sight of the poorly clothed, malnourished, and exhausted prisoners, the governor confined the men in the relative luxury of the capital's seminary. The officers were quartered separately in the upper floor of the building, and the enlisted men were confined in the monastery. Although "securely lodged," the men were well supplied by local merchants with bread, cheese, and even porter. According to one prisoner, wounded Americans were placed under the care of British surgeons. As he phrased it: "To the great honor of general Carleton, they were all, whether friends or enemies, treated with like attention and humanity." Carleton even ordered those Americans who did not survive the assault to be buried with the honors of war. General Montgomery, as befitting the commander of an opposing army and a former British officer, was interred in an elaborate ceremony following a formal procession through the city. The soldiers of the 7th regiment, wearing black mourning bands on their arms, accompanied his casket adorned with crossed swords in solemn silence, their muskets reversed. An American prisoner remembered shedding "tears of thankfulness, towards general Carleton" for his show of respect. Despite his continued insistence "that no message, nor shou'd any letters be receiv'd thro the Channel of the Rebels," Carleton did allow Arnold to send in five sleighs "loaden with baggage," winter clothing, personal effects, and "a little money for the Prisoners." Upon hearing of Montgomery's defeat, John Hancock took solace in the knowledge that "the prisoners are treated with humanity."⁸⁰

⁸⁰ "The Journal of Captain Thomas Ainslie," Fred C. Wurtele, ed., *Blockade of Quebec in 1775-1776* (Québec: The Library and Historical Society of Québec, 1905), 30, 32; John Joseph Henry, *An Accurate and Interesting Account of the Hardships and Sufferings of that Band of Heroes, Who Traversed the Wilderness in the Campaign Against Québec in 1775* (Lancaster, PA: William Greer, 1812), 127, 121,

Notwithstanding Carleton's apparent kindness to the prisoners, their fate remained uncertain. After all, he might have been preserving them for the gallows. An American prisoner remembered that soon after their capture a Scottish officer informed them that the officers "may be sent to England, and there be tried for treason" because they were "in rebellion." The Americans were well aware that Ethan Allen had been sent to England, and they were consumed by "doubt and uncertainty." Fearing prosecution, ninety-four American prisoners enlisted in the loyalist regiment the Royal Highland Emigrants in return for exoneration. Some of Carleton's officers were skeptical of the prisoners' change of heart. Captain Thomas Ainslie reported that "Many wages were laid that the greatest part of them will take the very first opportunity to desert." Their prognostications proved valid; desertions were incessant.⁸¹

Those unconvinced by British promises, and unable to desert, continued in their benevolent confinement until the evening of March 31st when British guards uncovered their plot to escape from the barracks. Captain Ainslie reported that the enlisted prisoners had concocted "a plan to join their friends without the walls" by surprising the guards, seizing their arms, and opening the gates to Arnold's forces. Carleton's kindness was betrayed; he would not make that mistake again. As Ainslie recorded, "The greatest part of those concern'd in this plot were put in irons; many of them behav'd very insolently on this occasion." Although some of the prisoners surreptitiously removed their fetters, others spent the remainder of the winter chained to the floor "attached to a monstrous bar, the weight of which was above their strength to carry" in the "frigid weather." Several

133; "The Journal of Captain Thomas Ainslie," 42, 36; Arnold to General Wooster. Québec. January 2nd, 1776. Force, *American Archives*, 4th series, 4:666; Hancock to Washington. Philadelphia, PA. January 20th, 1776. *PGW*.

⁸¹ Henry, *An Accurate and Interesting Account*, 125; Hatch, *Thrust for Canada*, 169; "The Journal of Captain Thomas Ainslie," 34.

Americans officers, unbound by a parole of honor, plotted their own jailbreak in April. When discovered, Carleton ordered the men confined, as Allen had been, in the dank hold of a British warship. Scurvy and "a violent diarrhoea" soon appeared among the prisoners afloat and ashore. Far from the leniency of their initial confinement, "wailings, groanings [*sic*] and death" characterized the experience of the prisoners after their escape attempts.⁸²

Carleton's change of heart did not go unnoticed in the American camp, but Arnold had neither the time nor the means to effect the relief of the prisoners. As the Canadian snows faded and the frozen Saint Lawrence thawed, both Carleton and the Americans awaited the inevitable: the arrival of British reinforcements. On May 7th, American hopes were dashed when two ships were spotted approaching the city creating a "great joy in town." With no prospect of capturing the reinforced garrison, the American forces began "their disorderly retreat." Seeing that his prisoners posed little threat to the security of the city with the American army on the run, Carleton ordered their chains removed. Nonetheless, one American officer reported that "we have been worse used since our people removed, than formerly...our situation [*is*] truly miserable."⁸³ Although the American situation looked bleak, Arnold and the northern army still occupied Montréal. If they could hold the city and its environs until reinforcements arrived, the quest for Canada might survive another season.

⁸² "The Journal of Captain Thomas Ainslie," 63; Henry, *An Accurate and Interesting Account*, 163-64; Nelson, *General Sir Guy Carleton*, 82. Surprisingly, John Henry did not blame Carleton for the treatment he received. He believed "that the virtuous and beneficent Carleton, taking into view his perilous predicament, did every thing for us, which an honest man and a good Christian could." Henry, *An Accurate and Interesting Account*, 166.

⁸³ Henry, *An Accurate and Interesting Account*, 169, 170. The American officers were assured that their privations were not "intended by his Excellency" Governor Carleton. "Diary of a Prisoner of War at Québec," Joseph A. Waddell, ed., *The Virginia Magazine of History and Biography*, Vol. 0, No. 2 (Oct., 1901), 144-152, 147.

The success of the American campaign now hinged on the actions, or inactions, of Canada's Indian groups. The American forces had initially hoped for a profitable alliance with the native population of Canada, but the prospect of such an alliance was greatly hindered by the American decision to interdict the lucrative fur trade between the Saint Lawrence River valley and the Great Lakes. American officials feared that the trade might support western British garrisons such as Detroit. This policy alienated both Indians and French Canadian merchants alike. Although Congress dispatched a delegation to appease the Canadian native and French populations, their arrival was too little, too late. Only the Caughnawagas resisted the British call to arms. In order to defend against Indian incursions from the west, the revolutionaries established a fortified stockade forty miles upriver from Montréal at a strategic point commanding the Saint Lawrence known as the Cedars (Les Cèdres). By April 26th, Colonel Timothy Bedel with 400 troops and two pieces of field artillery occupied the site and began constructing the fort. Arnold described the post as "well entrenched." Montréal's western flank appeared secure.⁸⁴

British officials, however, knew the American position to be tenuous. Short on supplies, reduced by death, disease, and desertion, and disheartened by the failure to capture Québec, the northern army was a shadow of its former force. Recent reinforcements were poorly trained, and in the opinion of Zephaniah Shephardson, a private soldier at the Cedars, they were "not very well disciplined, being young in the military art." Even General Arnold admitted that his men were "Raw Troops, badly clothed and fed, & worse paid, & without Dicipline [*sic*]." Their officers were not much

⁸⁴ General Schuyler reported to Washington that "the Caghnawagas are friendly, but refuse to take up arms in our Favor." Schuyler to Washington. Fort George, NY. May 26th, 1776. *PGW*; Arnold to Washington. Montréal. May 8th, 1776. *PGW*; Hatch, *Thrust for Canada*, 194-96.

better. Shepardson referred to his commanders as "ignorant of the art and policy of war." Colonel Bedel himself seemed to personify Shepardson's portrayal. Uninterested in garrisoning a frontier outpost, he ventured into the countryside to recruit native allies, turning over responsibilities to his second-in-command, Major Isaac Butterfield.⁸⁵

As the garrison idled, the British descended on their position. A force of 36 British regulars and 160 native warriors under the command of Captain George Forster surprised the post on May 18th. Rather than assault Butterfield's entrenched artillery, Forster demanded the Americans' surrender. He threatened Butterfield that if he did not surrender, "the savages could not be restrained." Fearing a massacre, Butterfield capitulated after a perfunctory exchange of fire. In the opinion of one of the American prisoners confined in Québec, the paltry defense of the Cedars ensured "their eternal disgrace." To Maryland Congressman John Carroll, Butterfield's surrender was "a disgraceful capitulation."⁸⁶

Under the articles of the capitulation, the Americans were required to turn over their foodstuffs, powder, cannon, and small arms, but Captain Forster promised them their "lives and the clothes which you have on." With the ceremony of surrender complete, Forster's native allies proceeded to strip the garrison of their knapsacks, watches, money, hats, and other personal effects. Forster could do nothing to restrain his allies lest they decide to massacre the prisoners or turn on his own men. Undoubtedly

⁸⁵ The Journal of Zephaniah Shepardson, copy of the manuscript in the Vermont Historical Society, quoted in Hatch, *Thrust for Canada*, 197; Arnold to Washington. Montréal. May 8th, 1776. *PGW*; Shepardson, quoted in Hatch, *Thrust for Canada*, 197.

⁸⁶ This account was published by Lieutenant Andrew Parke of the 8th Regiment who served with Forster at the Cedars. Andrew Parke, *An Authentic Narrative of Facts Relating to the Exchange of Prisoners Taken at the Cedars* (London, 1777), 23; "Diary of a Prisoner of War at Quebec," 144-152, 146; Charles Carroll, *The Journal of Charles Carroll of Carrollton During his Visit to Canada in 1776 as one of the Commissioners from Congress*, Brantz Mayer, ed., (Baltimore: The Maryland Historical Society, 1845), 99. For a more detailed narrative of the events of the Battles of the Cedars see Hatch, *Thrust for Canada*, Chapter 10.

against his will, Forster nonetheless violated the articles of capitulation much as Montcalm had twenty years earlier. To their horror, the Americans realized that European customs of war were not easily upheld in the wilds of Canada.⁸⁷

An American column under the command of Major Henry Sherburne sent to relieve Butterfield met a similar fate on May 20th. Unlike Butterfield, Sherburne's 140 men put up a staunch resistance, but when surrounded by Forster's warriors, the Americans agreed to lay down their arms. As at the Cedars, but to a greater degree, the native warriors divested the Americans of the majority of their effects. The wounded were not so fortunate. Sherburne recalled that as soon as the guns fell silent, several warriors began "tomahawking and scalping my wounded men, some of whom were butchered in my presence." Sherburne was immediately seized by a warrior who was on the point of scalping the American when a Canadian officer interceded. According to the Canadian officer, the native warrior proposed sharing Sherburne's remains; the officer could have the American's body, the warrior only desired his scalp. Well aware of the potential for retaliation, the Canadian forcibly interceded on Sherburne's behalf. He later recalled that he grabbed the warrior by the neck and lectured him: "You Dog, you want to kill a man who could be the cause of the death of four of our own prisoners—on the contrary, we will exchange these prisoners so that we might see our friends again." The officer placated the warrior by allowing him to strip the major of his finery. Devoid of his shirt and breeches, Sherburne must have been a pitiful sight. The Canadian officer

⁸⁷ Parke, *An Authentic Narrative*, 25, 26.

covered him with his cloak and succeeded in conveying the majority of the American prisoners back to the Cedars alive, if humiliated.⁸⁸

As far as Captain Forster was concerned, Sherburne and his men had no cause for complaint. They had surrendered to "savages" commanded by Canadians not British regulars, and they had done so "without any stipulation" for their treatment. One of Forster's officers excused the abuse of Sherburne's command by pointing to the natives' culture of war: "savages ever deem their prisoners as the private property of those who take them, and have generally, in former wars, sacrificed their prisoners to the manes of their deceased friends." In the officer's opinion, this practice, known to historians as "mourning war," was not to be condoned, but it was also impossible to avoid. Forster could not impose his vision of war on the "savages," who "had been very unruly;" nevertheless he tirelessly cajoled, bribed, begged, and implored the warriors to spare the prisoners' lives. Despite his best efforts, several Americans were hurried away into the Canadian interior to face certain torture followed by death or adoption. His men were equally unable to prevent the warriors from entering the barracks and pillaging "the prisoners indiscriminately." For hungry men in tattered uniforms, the pillaging must have been particularly burdensome. In Sherburne's opinion, "The barbarity with which we were treated by the savages, together with our sufferings for want of provisions and clothes, is beyond anything which can be imagined or described."⁸⁹

⁸⁸ "Extract of a Letter from Major Henry Sherburne to a Gentleman in Providence, Rhode Island." New York, June 18th, 1776. Force, *American Archives*, 4th series, 6:598; Hospice-Anthelme Verreau, *Invasion du Canada: Collection de Mémoires Recueillis et Annotés par M. l'Abbé Verreau* (Montréal: E. Senécal, 1873), 278-9. Sources vary on the number of men killed during this action. Sherburne recalled "twenty-eight men killed in action, wounded, killed in cold blood, and carried off by the savages." Force, *American Archives*, 4th series, 6:598. Lieutenant Parke maintained that only "5 or 6" Americans were killed. Parke, *An Authentic Narrative*, 27.

⁸⁹ For the best discussion of the Iroquoian practice of "mourning war" see Daniel K. Richter, "War and Culture: The Iroquois Experience," *The William and Mary Quarterly*, Third Series, Vol. 40, No. 4

Although pleased with his victories, Captain Forster was anxious to divest himself of his prisoners and return westward before American reinforcements could arrive. He now possessed more than 500 American captives with only a handful of regulars to guard them. Supplying the prisoners with anything resembling adequate provisions or shelter was out of the question. The British marched the men to the village of Quinze Chênes where they were billeted in the open. One prisoner remembered, "We lay on the ground for our bed...Nothing but mud and mire for our downy feather'd beds; clouds to cover us, with wind, hail and rain. We had no fires...nor meat to cook nor bread to eat." In the still frigid and damp Canadian air, the men suffered grievously. Forster had to act or his prisoners would perish. He approached the captured Americans officers about signing a cartel of exchange. In conference, both sides agreed to an equitable exchange of prisoners: officers for officers, soldiers for soldiers. Forster demanded, however, that the American prisoners "shall not, on any pretext whatsoever, hereafter take up arms against the Government of Great Britain." The British prisoners were not to be so constrained; upon their release, they were to rejoin their regiments in suppressing the rebellion.⁹⁰

When word of the cartel reached Arnold, he was livid. The general and a force of about six hundred men were advancing on Forster's position to rescue the prisoners and secure Montréal's flank. Arnold dismissed the cartel of exchange out of hand, "on account of the inequality of the second article" forbidding American soldiers to serve once released. Firing back a vehement response, Arnold demanded the "surrender of our prisoners" and warned that if "any of them were murdered, I would sacrifice every *Indian*

(Oct., 1983), 528-559; Parke, *An Authentic Narrative*, 28-9; "Extract of a Letter from Major Henry Sherburne to a Gentleman in Providence, Rhode Island." New York, June 18th, 1776. Force, *American Archives*, 4th series, 6:598.

⁹⁰ Shepardson, quoted in Hatch, *Thrust for Canada*, 201; Parke, *An Authentic Narrative*, 32.

who fell into my hands." Not satisfied with the threat of cold blooded murder, Arnold promised Forster that he "would follow [the warriors] to their towns, and destroy them by fire and sword." To Arnold, the native warriors were savages who violated the norms of war as he understood them, and Forster was their accomplice. The British officer was not easily rattled. He threatened to "immediately kill every prisoner, and give no quarter to any who should fall" into his hands in the future if the Americans' attacked his position. Arnold had a difficult decision to make. His troops were "raging for action" and "ample revenge," but their captured countrymen were "on the point of being sacrificed if our vengeance was not delayed." Arnold, who was "torn by conflicting passions of revenge and humanity," agreed to accept the articles of exchange provided that the offending stipulation was removed. Forster was relieved. He acceded to Arnold's conditions, "as the only means to avoid the destruction of the prisoners."⁹¹

The preamble to the exchange agreement proposed by Forster revealed his uneasiness with his native allies' culture of war. In his opinion, "the Customs and manners of the Savages in War" were "opposite and contrary to the humane disposition of the British Government, and to all civilized Nations." Induced by "the dictates of Humanity" to consider the prisoners' lamentable position, he "thought fit to enter into the following Articles of Agreement with General Arnold" for their exchange. Under the terms of the articles of agreement between the two officers, the American prisoners were released immediately and permitted to "return to their own Country" on the condition that an equal number of British prisoners of the same rank were sent to Canada "within the space of two months." Not wholly trusting his American adversaries, Forster demanded

⁹¹ Arnold to the Commissioners in Canada. St. Ann's. May 27th, 1776. Force, *American Archives*, 4th series, 6:595; Parke, *An Authentic Narrative*, 36.

that "Hostages be delivered for the performance of the Articles." Arnold allowed four captains to "be sent to Québec as Hostages [to] remain there until the Prisoners are exchanged."⁹²

Arnold had every intention of scrupulously maintaining the articles of agreement, but he did not forget his lust for vengeance. Prior to the establishment of the cartel, Arnold's forces came upon five of the prisoners who had been left behind during Forster's precipitous retreat. Arnold described the "five unhappy wretches" as "naked and almost starved." They informed him that one or two of their fellow prisoners, "being unwell, were inhumanely butchered." His indignation at the "base hypocritical conduct of the King's officers, their employing savages to screen them in their butcheries, their suffering their prisoners to be killed in cool blood," knew no bounds. Nevertheless, Arnold was cognizant that his actions had weighty repercussions for the American war effort. As a congressionally appointed officer, as well as a gentleman, he represented the justice and legitimacy of the American cause and was thus bound to conduct himself with honor. On May 27th, he instructed Colonel John De Haas of Pennsylvania to "keep strick [sic] Discipline among the Troops you will be Governed by the Articles respecting an Exchange of Prisoners and Cessation of Hostilities which I have this day entered into with Captain Forster." As long as the British upheld their end of the bargain, so would Arnold.⁹³

⁹² The four hostages were Captains Theodore bliss, Ebenezer Sullivan, John Stevens, and Ebenezer Green all of Bedel's command. Articles of Agreement between George Forster , Capt Commanding the King's Troops and Brig-Gen Benedict Arnold, the Cedars. Vaudreuil. May 27th, 1776. Carleton Papers. DLAR. Reel 2a, No. 192; Hatch, *Thrust for Canada*, 205.

⁹³ Arnold to the Commissioners in Canada. St. Ann's. May 27th, 1776. Force, *American Archives*, 4th series, 6:595; Arnold to De Haas. St. Ann's. May 27th, 1776. Orderly Book of the 1st Pennsylvania Battalion of Foot, November 26th to April 6th 1776, J. P. de Haas commanding. LSC. MSS L1988.190.337 [Bound].

De Haas had had the unenviable responsibility of ferrying the prisoners down the Saint Lawrence to Montréal under the suspicious glare of Forster's native allies. High winds and the many wounded prisoners complicated the process and delayed the prisoners' embarkation. Watching the spoils of their victories slip away, the native warriors grew restless. Forster warned De Haas that he must hurry because "it is Intirely [sic] out of my Power to put a stop to the Ravages the Savages committ [sic] against the prisoners." As the prisoners were ferried back to the American position, a party of "savages amusing themselves by the water side, did fire several muskets" at the unarmed men, but their shots fell short. A British witness maintained that the warriors did not have "the least intention to injure them, nor were any of them injured." From the perspective of a frightened American prisoner, the natives' intentions appeared less lighthearted. Private Shepardson remembered "a host of Indians with all there [sic] weapons of cruelty and the most horrid noise of war" who appeared and "attempted to rush upon us but were hindered by there [sic] superiors." In Shepardson's version of the events, the warriors "threaten'd us with there [sic] tomahawks, spears, knives and fire arms, showing the scalps [sic] they took off five of my mates, whom they killed after they were made prisoners." Once the warriors commenced firing, the American troops no longer considered themselves "bound to perform our part of the Capitulation."⁹⁴

In Arnold's opinion, the British were guilty of flagrant violations of the customs and norms of war. Arnold felt that Captain Forster only "pretended it was not in his power" to command and restrain his native allies. The American general could not be seen to tolerate such enormities without invaliding his own claim to the authority and

⁹⁴ Forster to De Haas. Vaudrieul. May 29th, 1776. Orderly Book of the 1st Pennsylvania. LSC; Parke, *An Authentic Narrative*, 37; Shepardson, quoted in Hatch, *Thrust for Canada*, 205; De Haas to Samuel Chase. Camp at Sorrell. June 12th, 1776. Orderly Book of the 1st Pennsylvania. LSC.

legitimacy of a professional soldier. His officers and men wanted revenge, and unlike Montgomery, Arnold, who was relatively inexperienced in European warfare, agreed with them. Although he would not violate the terms of the cartel, Arnold fully intended "to take ample vengeance" on the "savages, and still more savage *British* troops." Forester's native allies were obvious choices for retaliation, but Arnold would not be sated by native blood alone. Through their alleged inability to restrain the native warriors from molesting prisoners and violating the terms of the cartel, the British negated any innate civility they possessed. Forgetting his instructions from General Washington at the outset of the campaign to restrain "not only your own Troops but the Indians from all Acts of Cruelty & Insult which will disgrace American Arms," Arnold ordered De Haas to attack the native village of Conosadaga "and give no Quarter to the Savages white or Brown." He hoped to obtain justice "for the Cruel and inhuman murder of our unhappy Countrymen." His instructions were chillingly simple: "Surround the Town at the Break of Day you will attack them and kill, Burn and Destroy, the whole, leave not one store...or give Quarter to any one." For Arnold, burning the village and denying quarter to enemy combatants and noncombatants alike was "no more than a Just retaliation for the many murders they have Committed on our unhappy Countrymen (in cold Blood)." He intended to send Carleton, Forster, and their native allies a clear message: if the British wanted a barbarous war, they would get one.⁹⁵

Colonel De Haas, however, was unready and unwilling to abandon the restraints of "civilized" warfare. Indian warriors might legitimately be denied quarter, but their

⁹⁵Arnold to the Commissioners in Canada. St. Ann's. May 27th, 1776. Force, *American Archives*, 4th series, 6:595; Washington to Arnold. Cambridge. September 14th, 1775. *PGW*; Orders from Arnold to De Haas. Montréal. May 29th, 1776. Orderly Book of the 1st Pennsylvania. LSC; Arnold to De Haas. Montréal. May 31st, 1776. Orderly Book of the 1st Pennsylvania Battalion. LSC.

women, children, and most importantly, white Britons and Canadians, could not be slaughtered out of hand. In conference with his officers, De Haas decided to ignore Arnold's instructions. He justified his insubordination by claiming "confident assurance of the Enemies [*sic*] being reinforced," but his British opponents were clear on his true motivation: mercy. British Lieutenant Andrew Parke commended De Haas on his "honourable" and "manly" conduct in sparing the village. He was also pleasantly surprised by the disciplined and restrained behavior of the common soldiers throughout the campaign, which was much more "than could reasonably have been expected from men under such unprincipled leaders."⁹⁶

Arnold had little time to dispute the matter with De Haas; he now faced the advance of over eight thousand recently arrived British and German troops under the command of veteran general John Burgoyne. In early June, Carleton, with Burgoyne's fresh troops in the van, began his advance toward Montréal. Confronted by such an onslaught, the revolutionaries had no prospect of holding on to the city or to any of their Canadian possessions. The best they could hope for was "an orderly retreat out of Canada." Withdrawing southward on Lake Champlain to Crown Point, Arnold's army abandoned Canada to Carleton. On June 17th, British forces entered Montréal in triumph. The American quest for a fourteenth colony was over.⁹⁷

With Canada no longer under siege, Governor Carleton eased the rigor of his prisoners' confinement. No doubt moved by the sight of the "distorted, bloated, and blackened limbs" of the scurvy-ridden prisoners, Carleton gifted a fresh linen shirt to

⁹⁶ Parke, *An Authentic Narrative*, 3.

⁹⁷ Arnold was furious at De Haas' insubordination, but he was in no position to punish the popular commander of the Pennsylvania troops lest he elicit the ire of a significant portion of his army. Hatch, *Thrust for Canada*, 206; Nelson, *General Sir Guy Carleton*, 87; Carroll, *The Journal of Charles Carroll*, 81.

each of the nearly naked men. The Americans were elated by the gift and by the promise of improved nourishment. In June, the British commissaries, recently resupplied by sea, were finally able to provide the men with fruits and vegetables to combat the effects of the disease. Satiating their "voracious appetite[s]" with "Scurvy grass, in many varieties, eschalots, small onions, onion tops and garlic," the prisoners began to regain their strength. Those with the familial connections or social status necessary to establish lines of credit purchased "cheese, sugar, tea, coffee" and even tobacco. In August, when the prisoners were healthy enough to travel, Carleton dispatched them to New York under parole "for the purpose of being exchanged." The governor hoped that by releasing the prisoners he would "convince all His Majesty's unhappy subjects, that the King's mercy and Benevolence were still open to them." Unfortunately for the American cause, Carleton was the only senior British commander to take such a benevolent stance.⁹⁸

When news of the "unfortunate affair at the Cedars" reached Congress, the members were in no mood for benevolence. Their campaign to conquer Canada was in ruins, and Carleton and Burgoyne appeared poised to strike south down Lake Champlain into New York. Rumors abounded throughout Philadelphia that Sir William Howe and a host of Hessian and British troops were embarked for Manhattan. If Burgoyne and Howe could consolidate their forces and seize control of the Hudson River, the colonies would effectively be cut in two: cooperation between Boston and Philadelphia would be at an end. Howe's movements combined with open discussion of a declaration of independence induced Congress to frenzy.⁹⁹

⁹⁸ Henry, *An Accurate and Interesting Account*, 171, 167-8; Carleton to German, August 10th, 1776. CO 42/35. National Archives of the United Kingdom.

⁹⁹ Arnold to Congress. June 2nd, 1776. Montréal. Force, *American Archives*, 5th series, 1:165.

As if these events were not enough to fan the flames of congressional fury, Congress now had to contend with Captain Forster's flagrant violation of the first official cartel of exchange of prisoners of the conflict. Allowing the article of exchange to stand would implicitly condone Forster's actions and Britain's decision to involve native warriors in their dispute. Congress appointed a committee to consider "the Cartel between Brigadier-General *Arnold* and Captain *Forster*." On July 10th, 1776, only six days after Congress voted for independence, the committee made their report. They concluded, after perusing numerous eyewitness depositions and the correspondence between Forster and Arnold, that Forster had violated not only the cartel of exchange but also the articles of capitulation of the Cedars. Forster was culpable for permitting his native allies to plunder the prisoners, failing to prevent the murder of several of their number, and allowing others to die of exposure and hunger while in captivity. On the basis of this information, Congress resolved that Forster had acted "contrary to good faith, the laws of nature, [and] the customs of civilized nations." They condemned "the murder of the prisoners of war" as a "gross and inhuman violation of the laws of nature and nations," and demanded that the perpetrators be brought to "condign punishment." Because Arnold was subject to congressional orders, any agreement he entered into with Forster was subject to their approval, which would never be granted unless the British turned over the perpetrators of the crimes and made proper indemnification for their plundering. By attaching stipulations the British would never allow, Congress nullified the cartel.¹⁰⁰

¹⁰⁰ *JCC*, 5:535-6, 538, 539. Not every one agreed that the British had violated the terms of the cartel. Captain Sullivan, one of the hostages who had been turned over to the British as leverage for the maintenance of the cartel, believed that Congress "had a wrong Representation on the Matter." He was

In negating the cartel of exchange, Congress made their position on the treatment of prisoners of war abundantly clear. The newly independent United States of America was a "civilized" nation that deserved and demanded the accordance of the customary protections of war between European powers. By violating the terms of the capitulation and the cartel, as well as the numerous instances of inhumanity toward other American captives, the British transgressed not only the law of nations but of nature as well. Through their prosecution of the war, the British demonstrated their barbarity and by extension the justice of the American cause. Reconciliation with the British crown, once longed for by many revolutionaries, was now impossible. Revolutionary Americans could no longer envision themselves as subjects of an empire capable of such savagery. Irrevocable independency was the only option. As Thomas Jefferson phrased it in the Declaration of Independence, Britain's conduct was "scarcely paralleled in the most barbarous Ages, and totally unworthy the Head of a civilized Nation." No longer subject to the crown, as citizens of an independent and sovereign nation, Jefferson and his compatriots in Congress believed it their duty to teach the British "to respect the violated rights of nations." In future, Congress would inflict "punishments of the same kinds and degree...on an equal number of the captives from them in our possession" as the only means of "stopping the progress of human butchery." The Americans had threatened retaliation in the past to no effect. The question still remained, however, would Congress carry through their threats.¹⁰¹

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horrified that his government would allow "the breach of a Treaty which even the Savages have ever held sacred." The British eventually released all four hostages. Hatch, *Thrust for Canada*, 208.

¹⁰¹ David Armitage, *The Declaration of Independence: A Global History* (Cambridge: Harvard University Press, 2007), 169; *JCC*, 5:539.

The revolutionary elite's quest to capture Canada was an unmitigated failure, but their commitment to their vision of Europe's culture of restrained warfare, and consequently the humane treatment of enemy prisoners, had endured. As had been the case in Boston in spring and summer 1775, British officers in Canada had refused to consider the revolutionaries as legitimate combatants, deserving the humane treatment accorded prisoners of war in Europe. When captured, American prisoners were consigned to confinement in deplorable conditions while British authorities debated their fate. Even more egregious from the revolutionaries' point of view, the British felt no compunction at enlisting the support of Indian warriors to crush the invaders. Once mobilized against the revolutionaries, Native American groups waged war according to their own cultural norms; British authorities in Canada could do little to restrain their allies for fear of alienating them. Outraged and despairing of any peaceful solution to their disagreements with the British crown, many Americans in the summer of 1776 were prepared to abandon their vision of "civilized" warfare and return British atrocities in kind. The Pennsylvania propagandist, writing under the pseudonym "A Watchman," spoke for many when he declared that American "blood which was shed through wantonness, and without provocation, cries aloud for vengeance." Novices no longer, Americans were prepared to fight British fire with fire. Nevertheless, the revolutionary leadership in Congress and the Continental army knew that victory now turned on demonstrating the legitimacy of their state to foreign powers not the British king, Parliament, and people. Were the revolutionaries to abandon the restraints of Europe's culture of war in the summer of 1776, they would place themselves beyond the pale of civilization and thus the aid of any European state. Despite a tidal flood of provocations,

the revolutionary leadership continued to eschew calls for vengeance and maintained the "common usage and the practice of civilized nations in war." For now.¹⁰²

¹⁰² "Address of "A Watchman to the People of Pennsylvania." Philadelphia. June 13th, 1776. Force, *American Archives*, 4th series, 6:835; Resolve of Congress. Wednesday, April 3rd, 1776. Force, *American Archives*, 4th series, 5:1443.

Chapter Three: The Realities of War

In the spring of 1776, General Philip Schuyler, reeling from the expectation of his Canadian campaign's failure, dispatched a contingent of the Third New Jersey regiment into the Mohawk valley of New York for the express purpose of capturing loyalist Sir John Johnson and his supporters. In Schuyler's opinion, Johnson had demonstrated "the most Hostile Intentions against the Country" and therefore deserved "to be made *close* prisoner." Given Johnson's inveterate opposition to the American cause, and his active recruitment of Iroquois warriors and recent Scottish immigrants to the king's standard, Schuyler's orders were remarkably restrained. He instructed Colonel Elias Dayton that upon capture, Johnson was "by no means to experience the least ill treatment in his own person, or those of his Family." The colonel was "to be particularly careful that none of the Men under your Command, or any Persons whatever, destroy, or take away the most trifling Part of his Property." For his part in the recruitment scheme, Johnson was "not so much as put under moderate Confinement" by the Continental army. This was no mere courtesy to a fellow member of the New York elite. Schuyler issued the same orders for the treatment of Johnson's less lofty followers. The American soldiers were under "the strictest Order that no abuse be given to the Persons of these People or their property." Johnson and his supporters were opponents to the revolution and therefore legitimate targets for arrest, but they were not "savages" beyond the pale of civilization. Despite the violence of the British war effort in Massachusetts and Canada, Schuyler assured Johnson

that "American Commanders Engaged in the Cause of Liberty remain uninfluenced by the savage and Brutal Example which has been given by the british [*sic*] Officers."¹

Less than a year and a half later, a similar contingent of American soldiers marched within five miles of British-occupied New York in the dead of night to capture staunch loyalist, and brigadier general in the crown forces, Oliver De Lancey. Finding the master of the house absent with only his wife and female children at home in their beds, the soldiers proceeded to ransack the estate. In the course of their depredations, one of the soldiers struck De Lancey's teenage daughter with the butt of his musket, and others began to torch the house while the inhabitants remained inside. De Lancey's family was fortunate to escape the blaze, but they wandered aimlessly through the night, barefoot, and clad only in their nightclothes in the bitter late November air. Their domestic servants were not so fortunate. According to De Lancey, two juvenile servants, one white and one black, perished in the flames, while seventeen others were left homeless with only the clothing on their backs. Dragging several male prisoners with them, the soldiers disappeared into the darkness. Upon learning of the raid on the De Lancey home, one American officer was horrified: "Is not this warfare a most horrid business [and] sin? I never desire to be concerned in distressing women and children." Nevertheless, the officer admitted that "If Oliver had been there instead of Mrs. De Lancey and children, it would have been a pretty affair." Harming women and children was beneath the dignity of the American cause, but a vile traitor like De Lancey was fair game. Congress had no such reservation. The President of Congress, Henry Laurens,

¹ Berkshire County Committees of Safety and Inspection to Washington. Pittsfield, MA. June 7th, 1776. *PGW*; Philip Schuyler to Sir John Johnson. Saratoga, New York. May 14th, 1776 and Orders to Colonel Elias Dayton, Saratoga, New York. May 14th, 1776. Elias Dayton Papers. New Jersey Historical Society transcribed in Mark E. Lender and James Kirby Martin, eds., *Citizen Soldier: The Revolutionary War Journal of Joseph Bloomfield* (Newark: New Jersey Historical Society, 1982), 146-148.

informed Brigadier General Samuel Parsons that the soldiers' conduct at the De Lancey homestead met with "general satisfaction" from that body.²

Both raids were conducted by regular American forces, not bandits, vigilantes, or criminals, and both enjoyed the sanction and commendation of revolutionary America's senior political and military leadership. However, the results of the 1777 attack on General De Lancey's home—private property in flames, unarmed women and children beaten, homeless, and insulted, and servants murdered—would have been unthinkable in the summer of 1776 to those very types of men who were now so pleased. From the vantage point of Oliver De Lancey's distressed family, warfare in America looked more like the desolation of the seventeenth-century religious wars than Emmerich von Vattel's idealized rendition of "civilized" combat.

This chapter investigates the transformation in the revolutionaries' conduct of the war by focusing on the New York campaign of 1776-1777. Although concentrating on prisoner treatment during the crown's efforts to capture and subdue New York City and its environs, this chapter ranges geographically from Georgia to Massachusetts—wherever significant British or loyalist forces operated during the period. Throughout, I argue that a combination of British atrocities, amplified and exaggerated by the prolific revolutionary press, large-scale armed loyalist opposition, and the limitations of

² Memorial of Brig. Gen. Oliver De Lancey. New York. July 11th, 1778. AO13/3/282-332. National Archives of the United Kingdom; George Clinton to the New York Council of Safety. Little Britain, NY. December 1st, 1777. *Public Papers of George Clinton*, Hugh Hastings, ed., (Albany, NY: James B. Lyon, 1900), 10 vols., 2:558; Col. Hugh Hughes to Genl. Horatio Gates. Fishkill, NY. November 27th, 1777. Revolutionary War Papers. Volume III. Page 235. Bancroft Collection. NYPL; Henry Laurens to Brigadier General Samuel Parsons. York, PA. December 23rd, 1777. *PCC*, Item 12, Vol. 1, Page 73. Evincing no sign of disapproval, assistant Commissary of Prisoners John Adam reported to his superior Elias Boudinot: "Oliver Delancey's [*sic*] House was laid in ashes the 25th Inst. in the night by Capt. Buchanan who used to be Cockswain of His Excellency Genl. Washington's Barge when in N. York, his aim was to have got the old Gentlemen, he brought off with him from there four prisoners." Adam to Boudinot. November 30th, 1777. Maranack [*sic*], NY. Elias Boudinot Papers. (PHi) 68. HSP.

republican government unleashed a violent civil war between the revolutionaries and those still loyal to the crown that remained unchecked until the close of the conflict in 1783. In this internecine warfare, grim violence and suffering characterized the plight of those on both sides. By the New York campaign's culmination, thousands of Americans wasted in noisome British prisons without hope of release or exchange, while thousands of others took up arms against the new nation. The Continental Congress was powerless to prevent either. Confronted by the threat of loyalist uprising at every turn and by the truly staggering mortality rate of American prisoners, revolutionaries from across the social spectrum began to conceive of the British as barbarians and their loyal American supporters as rebels and traitors. Re-imagined in this way, the enemies of the revolution were no longer entitled to the protections of "civilized" warfare. Rebels could be imprisoned at whim, tried as traitors, summarily executed, and treated as barbarians: brutalized, enchained, and denied quarter. British decisions to employ foreign troops, confine captured Americans in floating prisons, and arm loyalists to oppose the revolutionary movement radicalized ordinary Americans, who took to arms in the quest for retribution. This combustible combination, which occurred wherever British forces ranged, launched the conflict on a path of escalating violence, vengeance, and retaliation

Nevertheless, Americans' deeply engrained vision of "civilized" warfare was not so easily degraded or jettisoned. Restraint in wartime violence had deep cultural resonance in early America, and much of the revolutionary leadership in 1777 continued to insist upon rigid adherence to the customs and practices of war among European powers. Without a centralized government or military bureaucracy empowered to

organize, administer, and direct the war effort, however, standards for the treatment of captured enemies could not easily be enforced. Thus the day-to-day operations of the conflict increasingly fell upon individual states, each of which conducted the conflict with varying degrees of severity; those states in closest proximity to the British army were most likely to react with greatest violence. While the states waged their own terror campaigns, Washington continued to insist upon the restrained conduct of the Continental army, but the decentralized nature of the American war effort—in conjunction with the widespread dissemination of accounts of British misconduct in the public sphere, and the pervasive threat of loyalist insurrection, both real and imagined—ensured that much of the conflict's conduct was beyond his control. As a consequence the Continental Commissary General of Prisoners, Elias Boudinot, could boast in the summer of 1777 without the least insincerity that "humanity to Prisoners of War has ever been the peculiar Characteristic of the american [*sic*] Army," while simultaneously enemy prisoners in New York, New Jersey, Pennsylvania, and Connecticut suffered in squalor aboard American prison ships and overcrowded jails, and perished at the gallows for treason against a country they never claimed.³

³ Boudinot to James Wilson and Christian Forster. Morris Town, NJ. July 5th, 1777. Boyle, *Their Distress is almost intolerable*, 14. While numerous scholars have examined the loyalist experience during the revolution, none have placed the revolutionaries' campaign to suppress loyalism within the context of the larger treatment of enemy prisoners. In this chapter, I take up Sylvia Skemp's call for "more attention" to the "treatment and politics of prisoners of war, especially of loyalist prisoners of war." Sheila L. Skemp, *William Franklin: Son of a Patriot, Servant of a King* (New York: Oxford University Press, 1990), 287. The only work on prisoners of war that mentions loyalist prisoners at all is Doyle, *The Enemy in Our Hands*. Doyle, however, unwisely segregates the loyalists from British and Hessian prisoners, and because of the nature of such a broad chronological overview, he barely scratches the surface of this dense subject. In addition to presenting the first in-depth scholarly account of the complex interplay of the treatment of loyalist, American, British, and Hessian prisoners during the New York campaign, this chapter contests David Hackett Fischer's claim that the revolutionaries "improvised a new way of war that grew into an American tradition. And they chose a policy of humanity that aligned the conduct of the war with the values of the Revolution." Fischer, *Washington's Crossing*, 379. The two most recent studies of loyalists in New York, Ruma Chopra, *Unnatural Rebellion: Loyalists in New York City During the Revolution* (Charlottesville, VA: University of Virginia Press, 2011) and Van Buskirk, *Generous Enemies*, have all but

"The doleful Story of their Captivity and Distress": American Prisoners in New York and the Formation of a British Detention Policy

Perched on the highest point on Manhattan Island overlooking the Hudson River in November 1776, Fort Washington was an impressive feat of military engineering. Named in honor of the American commander, the pentagonal fortification was the Continental army's last hope to prevent the island from falling into British hands. Despite assiduous preparation the previous summer, American forces had been unable to stop a British armada from landing nearly 25,000 British and Hessian troops on Long Island in August. The long feared "Armies of foreign Mercenaries" that Thomas Jefferson had decried in the Declaration of Independence had arrived. Executing a virtually textbook example of envelopment, the Britons and their Germanic associates defeated Washington's men on 27 August at the Battle of Brooklyn, capturing over a thousand American prisoners. Washington, who had bloodlessly driven the British from Boston in March, now fled in turn. Fortunate to escape with any of his troops, Washington retreated the length of Manhattan, losing men, materiel, and most of his mettle at Kip's Bay, Harlem Heights, and White Plains. The British were unimpressed with their adversary's haphazard and unsoldierly defense of New York. One Hessian described the American officers as "nothing but mechanics, tailors, shoemakers, wig-makers, [and]

ignored the phenomenon of armed loyalism and the experience of loyalist prisoners in American captivity. I have drawn much of my methodology from Wayne Lee's *Crowds and Soldiers*, but Lee's concentration on North Carolina prevents him from appreciating the sanguinary civil war that developed in New York soon after the British arrival in 1776. Harry M. Ward's, *Between the Lines: Banditti of the American Revolution* (Westport, CT: Praeger, 2002), is a very good account of the violence of the *petit guerre* that developed in the north in the second half of the conflict, but he does not delve deeply into the period 1776-1777. Throughout this chapter, I have been aided by the works of Robert M. Calhoon, especially his broad survey of the loyalist experience, *The Loyalists in Revolutionary America, 1760-1781* (New York: Harcourt Brace Jovanovich, 1965) and Burrows, *Forgotten Patriots*. By emphasizing the immediate inundation of violence after the British occupation of New York, and the factors that precipitated that violence, this chapter revises the accepted narrative of the conflict.

barbers," hardly the stalwarts who had bloodied the British at Concord and Bunker Hill. Victory was almost too easy. Perhaps the formidable entrenchments of Fort Washington would at last offer worthy opposition.⁴

Washington was not confident. The fort was indeed well constructed, and its commanding position over the river appeared nearly unassailable. Moreover, the fort was garrisoned by nearly 3,000 of Washington's best troops and armed with 34 cannon and 2 howitzers. One British officer, Captain Frederick Mackenzie, feared that the fort's "natural strength and situation of the ground" would hamper any attempt to reduce it by a conventional siege. The fort would have to be taken by escalade. With over eight thousand British and Hessian troops poised to attack, that is exactly what the British planned to do. Washington wanted to abandon the fort and save his men to fight another day, but he hesitated. Knowing that to abandon Fort Washington was to abandon New York to the British indefinitely and under pressure from one of his most trusted subordinates, General Nathanael Greene, to support the garrison, Washington backed down. The fort was entrusted to the capable care of Colonel Robert Magaw of Pennsylvania with orders from Greene to defend the post until he heard otherwise.⁵

The orders to abandon the fort never materialized. Instead, General William Howe, Britain's senior military commander in America, sent an officer with a flag of truce on 15 November to demand Magaw's surrender. Howe's terms were clinically clear: the garrison had the "alternative between surrendering at discretion, or every man

⁴ Armitage, *The Declaration of Independence*, 169; Fischer, *Washington's Crossing*, 111-113; Colonel von Heeringen quoted in Edward Jackson Lowell, *The Hessians and the Other German Auxiliaries of Great Britain in the Revolutionary War* (New York: Harper & Brothers, 1884), 66.

⁵ Mackenzie, *Diary of Frederick Mackenzie*, 1:109, 105; Ron Chernow, *Washington: A Life* (New York: Penguin, 2010), 260-261, and Fischer, *Washington's Crossing*, 111; Nathanael Greene to Washington. Fort Lee, NJ. November 15th, 1776. Force, *American Archives*, 5th series, 3:699.

being put to the sword." Confident in the strength of his position, Magaw was "determined to defend the post or die." In proffering such extreme terms without first allowing Magaw to display his martial acumen and gentlemanly honor by defending his fort, Howe had not only insulted the American army but also Magaw personally. Were he to surrender without a fight, Magaw would earn the censure and opprobrium of his superiors, subordinates, contemporaries, and most importantly posterity. Turning the table on Howe, Magaw accused the general of acting "a part so unworthy of himself and the *British* nation." The American colonel rejected the British aristocrat's terms out of hand and prepared for the inexorable result.⁶

Shortly before dawn on the 16th, British land batteries and naval artillery erupted in "a violent Cannonade," engulfing Fort Washington in a haze of acrid smoke punctuated by blinding illumination. Out of the fog emerged the leveled bayonets of the Hessian grenadiers, English light infantry, and Scottish highlanders. In the face of such a martial onslaught, the American outer works were quickly abandoned, rendering Colonel Magaw's position desperate. Should the enemy breach the fort's walls, there would be little hope for quarter. According to a British officer present at the attack, General Howe insisted that Magaw "surrender immediately, without any other terms than a promise of their lives, and their baggage." The American commander "pled for the Honors of War," but Howe would have none of it. The fort would fall; only the defenders' fate was in question.⁷

⁶ Robert Magaw to Nathanael Greene. Fort Washington, NY. November 15th, 1776. Force, *American Archives*, 5th series, 3:700; Robert Magaw to the Adjutant-General of the British Army. Fort Washington, NY. November 15th, 1776. Force, *American Archives*, 5th series, 3:700.

⁷ Mackenzie, *Diary of Frederick Mackenzie*, 1:109; *Independent Chronicle and the Universal Advertiser*, December 5th, 1776.

Magaw's determination to hold the fort to the last withered at the sight of the oncoming Hessians. The Americans were well aware of the Hessians' reputation for brutality. In the aftermath of the Battle of Brooklyn, rumors abounded throughout the Continental army that the Hessians had refused to grant surrendering Americans quarter. One Pennsylvania officer recalled that he was determined "to run any risk rather than fall into their hands." The rumors carried more than a shred of truth. A Hessian officer admitted that the American riflemen killed in the battle "were mostly pitted to the trees with bayonets." He attributed the actions of his countrymen not to any innate Germanic cruelty, but to the fact that "the English did not give much quarter, and constantly urged our people to do the like." A Scottish officer corroborated his Hessian allies' explanation: "We took care to tell the *Hessians* that the Rebels had resolved to give no quarters to them in particular, which made them fight desperately, and put all to death that fell into their hands." Because the Americans were rebels, and "vile enemies to their King and country," the Scot rejoiced that "The *Hessians* and our brave *Highlanders* gave no quarters; and it was a fine sight to see with what alacrity they dispatched the Rebels with their bayonets." An unfortunate Royal navy midshipman at the Battle of Kip's Bay was less impressed with his allies. After witnessing "a Hessian sever a rebel's head from his body and clap it on a pole," he himself became a victim of the Germans when they confused his navy blue frock for that of an American. He and a fellow naval officer were knocked to the ground with muskets and beaten "unmercifully." The midshipman believed "they would undoubtedly have put their bayonets through us" had a British officer not come to their aid. Magaw's men knew that the British officers commanding the assault on Fort Washington were unlikely to intercede on the part of men they

considered to be "damned rebels." They waited anxiously while the colonel and his subordinate officers considered the British proposition.⁸

Rather than consign his men to their death, Magaw capitulated. By early afternoon, the guns fell silent and 2,837 American soldiers laid down their arms in surrender. From across the Hudson river at Fort Lee, Washington watched "this unhappy Catastrophe" unfold. The garrison marched out of the fort flanked on either side by the Hessian troops that had led the assault. Exhausted and enraged at the carnage, the Hessians were in no mood for niceties. A Hessian chaplain who witnessed the surrender admitted that "despite the strictest orders, the prisoners received a number of blows." Most of these were delivered with the butt end of a musket as the prisoners filed out of the works, but John Adlum, a Pennsylvania militiaman and survivor of the battle, remembered hearing "that some of our soldiers, was [*sic*] severely cut with the swords of the Hessians." All suffered blistering insults and unabated plundering at the hands of their captors, the articles of capitulation guaranteeing their personal property notwithstanding. British officers present at the scene did nothing to restrain their allies. At least one British officer, General Howe's adjutant Stephen Kemble, was shocked by the breach of the article of capitulation. "To our shame, tho' they Capitulated for the Safety of their Baggage, they were stripped of their Wearing Apparel as they [were] Marched out by Hessians."⁹

⁸ A Transcription of Samuel J. Atlee's *Journal of the Transactions of the 26th of August 1776 upon Long Island*. Bancroft Collection. NYPL. American Papers. vol., 2, no. 36, p. 717; Colonel von Heeringen quoted in Lowell, *The Hessians*, 65, 68; Extract of a letter from an officer in General Frazer's Battalion. September 3rd, 1776. Force, *American Archives*, 5th series, 1:1259; John Knock Laughton, ed., *The Journal of Rear-Admiral Bartholomew James* (Navy Records Society, 1896), 31-32; Nathanael Greene to Washington. Fort Lee. November 11th, 1776. Force, *American Archives*, 5th series, 3:638.

⁹ Chernow, *Washington*, 262. Rodney Atwood places the number at 2,818. Rodney Atwood, *The Hessians: Mercenaries from Hessen-Kassel in the American Revolution* (Cambridge: Cambridge University Press, 1980), 78; Washington to Trumbull. Fort Lee, NJ. November 17th, 1776. *PGW*;

Other British officers were less than apologetic. Captain Mackenzie thought the Americans "had no right to expect the mild treatment they met with." After all, the men were "Rebels taken in arms" and thus "forfeit their lives by the laws of all Countries." Although he was pleased to boast that "Humanity is the characteristic of the British troops," Mackenzie expressed the prevailing opinion among the officers of the army that "we act with too much lenity and humanity towards the Rebels." Fear of British retribution alone would bring the rebels to heel.¹⁰

The Fort Washington prisoners had plenty to fear as they marched towards captivity. The specter of the hangman still loomed large in their imaginations. According to one Connecticut soldier, William Slade, their guards referred to the Americans as "Yankee Rebbels [*sic*] a going to the gallows." In the aftermath of the battle of Brooklyn, American captives had been similarly accosted by British "officers, soldiers and camp-ladies" in "the most scurrilous and abusive language" demanding to know why they had not been "put to the bayonet or hanged." No one knew what was in store for the prisoners once they reached New York.¹¹

To compound their woes, the prisoners trudged southward with empty stomachs and bare backs. The British failed to supply the prisoners with any provisions on their march and most had been plundered of what little warm clothing they owned. William Slade spent the day after the battle "in sorrow and hunger, having no mercy showed." In their affidavit to Congress, prisoners Samuel Young and William Houston reported that

Transcription of the diary of Philipp Waldeck, chaplain of the 3rd Waldeck regiment. Hessian Papers. Number 28. Box 2. George Bancroft Collection. NYPL. Translations by Bruce Burgoyne; Stephen Kemble, *The Kemble Papers* (New York: New York Historical Society, 1983-5), 2 vols., 1:100

¹⁰ Mackenzie, *Diary of Frederick Mackenzie*, 1:111, 39, 111.

¹¹ The Diary of William Slade of New Canaan, Ct. November 18th, 1776. Transcribed in Dandridge, *American Prisoners*, 495; Samuel Atlee's *Journal of the Transactions of the 26th of August 1776 upon Long Island*. Bancroft Collection American Papers, Volume 2, Number 26. Bancroft Collection. NYPL.

"they had no victuals given them of any kind" for three days after the battle. Far from eliciting the sympathy of their captors, these starving, exhausted, and dejected men "excited the laughter of our Soldiers," according to Captain Mackenzie. Many Britons, protected from the cold by their watch coats, regimentals, and woolen breeches, appeared to delight in the suffering of their prisoners, who "were in general but very indifferently clothed; few of them appeared to have a Second shirt." The prisoners were understandably less jocose. William Slade aptly summarized their predicament: "These four days we spent in hunger and sorrow being decried by every one and calld [*sic*] Rebs." Unless they were resupplied and properly quartered, they might have more to "dread than the common sufferings of prisoners of war." Prayers for a speedy exchange were on everyone's lips.¹²

General Howe was equally anxious to divest himself of the prisoners. When Fort Washington fell, the British lacked the infrastructure necessary to maintain the prisoners they already possessed. The addition of almost three thousand more prisoners proved vexing to Howe. With winter approaching, Howe was responsible for quartering and provisioning a massive array of British and Hessian soldiers on an island devastated by warfare. Most of the inhabitable buildings in lower Manhattan had been destroyed by fire shortly after the British arrived, and Howe was now greeted by an influx of loyalist refugees fleeing the rebel lines. Most having lost their homes, businesses, and property for their support of the king, they justifiably demanded shelter and sustenance. Under the circumstances, Howe had no intention of holding a ravenous and ill-clad army of

¹² The Diary of William Slade of New Canaan Ct. November 18th, 1776 in Dandridge, *American Prisoners*, 495; Avadavat of Samuel Young and William Houston. December 15th, 1776. *PCC*, Item 53, p. 25; Mackenzie, *The Diary of Frederick Mackenzie*, 1:111-112; The Diary of William Slade of New Canaan Ct. November 18th, 1776 in Danske Dandridge, *American Prisoners*, 495; Mackenzie, *The Diary of Frederick Mackenzie*, 1:111, 112, 111.

prisoners in captivity for long. He appointed Massachusetts loyalist Joshua Loring as his commissary of prisoners to attend to the prisoners' wants and negotiate their release. In early December, Howe informed Lord George Germain that although he was "under the necessity of detaining [the prisoners]...at a very great expence [*sic*] and inconvenience," he was confident he would soon be rid "of the remaining incumbrance [*sic*]." Until then, Loring would see to their needs.¹³

Loring's task was not easy. Despite almost a century of intermittent warfare with the great Catholic powers of Europe, the British army was surprisingly unprepared for such an influx of prisoners. In prior conflicts, prisoners of war had been administered by a civilian commission under the auspices of the Lords Commissioners of the Admiralty known as the Commission for Sick and Hurt Seamen and the Exchange of Prisoners. Since 1740 this commission had become a permanent component of the British war machine tasked with not only the care of enemy prisoners, both terrestrial and maritime, but also their swift and efficient repatriation. Prisoners awaiting exchange were housed in castles and local jails, and aboard decommissioned warships known as hulks. While uncomfortable, their confinement was temporary. The key to the success of the British system was the rigid adherence to cartels of exchange established with their French and Spanish counterparts. Although there were certainly breakdowns in the system of exchange, and enemy prisoners undoubtedly suffered as a consequence, on the whole the system accomplished its intent: French soldiers and sailors were returned in exchange for

¹³ Buskirk, *Generous Enemies*, 21-22. On September 21st, Howe suggested to Washington that he would "send Mr. Joshua Loring, my Commissary, to Elizabethtown, as a proper place for the exchange of prisoners." Howe to Washington. York Island. September 21st, 1776. Force, *American Archives*, 5th series, 2:437; Howe to Lord George Germaine. New York, December 3rd, 1776. *The Parliamentary Register; Or, History of the Proceedings and Debates of the House of Commons* (London: J. Almon, 1775-80), 17 vols., 11:364.

an equal number of captured Britons. In this conflict, however, General Howe was constrained by his political superiors from entering into any formal cartel of exchange that might legitimate the rebel cause.¹⁴

Unable and unwilling to formally negotiate with the United States, Howe appealed to Washington as a gentleman and brother officer to arrange a system of informal exchanges. The two men had entered into negotiations in July when Washington suggested that an "exchange of prisoners will be attended with mutual convenience and pleasure to both parties." Acting with congressional approval, Washington proposed that officers be exchanged for those of equal rank and soldiers, sailors, and civilians be exchanged equally for their respective counterparts. Constantly pestered by captured British officers requesting preferential exchange, Howe was elated to learn that the Americans were willing to conduct informal exchanges. Not only would such an exchange rid him of the nuisance of constant petitions, he would also recoup valuable officers and veteran regiments captured in Canada for his subsequent campaigns in return for ill trained and hungry novices. "Wishing sincerely to give Relief to the Distresses of all Prisoners," Howe informed Washington in August that he would "readily consent to the Mode of Exchange You are pleased to propose."¹⁵

Not all of Howe's subordinates agreed with their general. Captain Mackenzie thought it "rather extraordinary that under the present circumstances we should treat with them as if on an equality." The Americans were no better than criminals; even an

¹⁴ The position of Commissary General of Prisoners was a sinecure according to loyalist historian Thomas Jones. Thomas Jones, *History of New York During the Revolutionary War* (New York: New-York Historical Society, 1879), E.F. De Lancey, ed., 2 vols., 1:1351; Sheldon S. Cohen, *Yankee Sailors in British Gaols: Prisoners of War at Forton and Mill, 1777-1783* (Cranbury, NJ: Associated University Presses, 1995), 18-22. See also, Burrows, *Forgotten Patriots*, 9-10; Germain to Howe. Whitehall. February 1st, 1776. Force, *American Archives*, 4th series, 4:902.

¹⁵ Washington to Howe. New York. July 20th, 1776. *PGW*; Howe to Washington. Staten Island. August 1st, 1776. *PGW*.

informal exchange would implicitly acknowledge that they were beyond the jurisdiction British civil law. In his opinion, it was wiser to keep "all the Rebel prisoners taken in arms, without any immediate hope of release, and in a state of uncertainty with respect to their fate" in order to "strike great terror into their army." Morale in Howe's army was high after the successes around New York, and many British officers felt that total victory was close at hand. One more vigorous assault would "crush the Rebel Colonies" and ensure that all the king's men would "return covered with *American* laurels."¹⁶

Desirous and hopeful for reconciliation, however, Howe viewed the exchange as an opportunity to demonstrate the magnanimity and lenience of Great Britain. The bayonets of his men had already given the rebels ample evidence of Britain's determination to stamp out the rebellion by force; now was the time for conciliation. Howe informed Washington in July that it was his "Disposition as a Man...to discourage and punish all Acts of Cruelty." Unlike the American general who threatened retaliation for alleged British atrocities, Howe firmly believed that "Examples of Moderation will ever be the sharpest reproach to those who violate the Laws of Honor & Humanity." Despite the thinly veiled reproach, Howe knew Washington to be a man of honor. In Washington, Howe saw a fellow gentleman with whom he could negotiate. Provided the two men maintained a regular and honest conversation, peace must surely follow. Clearly skeptical of the likelihood of a negotiated end to the war, Elbridge Gerry told John Adams that "General Howe is desirous of keeping open a Communication with our

¹⁶ Mackenzie, *Diary of Frederick Mackenzie*, 1:39; Ira D. Gruber, *The Howe Brothers and the American Revolution* (Chapel Hill: UNC Press, 1972), 135; Extract of a letter from an officer in General Frazer's Battalion. September 3rd, 1776. Force, *American Archives*, 5th series, 1:1259.

General and thinks he has made the *first Advances to an Accomodation* [sic]." From Howe's perspective, that accommodation hinged on mutual trust between the two men.¹⁷

In the weeks following his victory at Brooklyn, Howe sought to establish that trust by orchestrating several high-level prisoner exchanges as a demonstration of his good faith. The general was pleased to trade the popular American general John Sullivan for the irascible Brigadier Richard Prescott, who the Americans had accused of mistreating Ethan Allen at Montréal. Although he could not acquiesce to Washington's request for the release of General William Alexander in exchange for brevet Brigadier Donald MacDonald because of the disparity between their commissioned ranks, Howe generously accepted the captured British governor of the Bahamas, Montfort Brown, instead. Because Governor Brown had not been acting in a military capacity when an American naval force under the command of Esek Hopkins made him a prisoner, and he did not possess a commission in the regular army, Howe's proposal was exceedingly generous. Under European conventions, Brown should have been exchanged only for a civilian prisoner of equal political stature. The British general even ordered the immediate exchange of the prominent whig, and future member of the Continental Congress, James Lovell for Governor Philip Skene; an exchange that Howe had earlier refused on the grounds that Lovell had carried on "a prohibited Correspondence" during his captivity. With New York in his hands, and empowered by His Majesty to seek a peaceful resolution to the conflict, Howe could now negotiate from a position of strength.

¹⁷ Howe to Washington. Staten Island. July 16th, 1776. *PGW*; Elbridge Gerry to Samuel and John Adams. Kings Bridge, NY. July 21st, 1776. *The Adams Papers Digital Edition*, ed. C. James Taylor. Charlottesville: University of Virginia Press, Rotunda, 2008. <http://rotunda.upress.virginia.edu/founders/ADMS-06-04-02-0174> [accessed 04 Feb 2011], hereafter cited as *Adams Papers*. On August 11th, Nathan Rice informed Abigail Adams that "Mr. How[e], however was more [agreea]ble and wished a more free Intercourse with our [army?]." *Adams Papers*.

Washington was in no position to haggle; he jumped at the opportunity to regain two of his most trusted lieutenants, as well as a respected, influential, and long suffering civilian.¹⁸

Word that the British were finally willing to conduct an exchange of prisoners reverberated throughout the states. Newspapers sang the praises of an alteration in the British treatment of American prisoners. While captured Americans such as Ethan Allen had been treated with "the utmost barbarity" in the past, they were now afforded the privileges of their rank and station. British policy had "softened." For British prisoners in American custody, the change in British policy seemed to presage their release. Major Christopher French, the British officer who had so vexed Washington and Hancock through his constant petitions and imperious style, noted that all of the officers in Hartford, whose "Scituation [*sic*] (in close Goal) could not be...more irksome," took "great pleasure" in the news of an imminent exchange. The ordeal of their captivity appeared to be coming to a close. Howe's lenient approach to the formerly thorny issue of whether to treat the Americans as prisoners of war or rebels in arms also met with the approval of the authorities in London. Lord Barrington, Britain's secretary at war, was pleased to learn "that an opportunity may offer for your getting those Officers and Men exchanged who were made Prisoners at Chamble [*sic*] & St John's." The ministry's

¹⁸ McDonald had been brevetted a brigadier by North Carolina's royal governor Josiah Martin but he was only a commissioned major in the regular army and thus could not be equitably exchanged for a general in the congressional forces. Howe to Washington. York Island. September 21st, 1776. *PGW*; Howe to Washington. Staten Island. August 1st, 1776. *PGW*; Howe to Washington. Boston. February 2nd, 1776. *PGW*; For the best account of Lord and General Howe's involvement in the British peace commission of 1776, see Gruber, *The Howe Brothers*, 72-78.

experiment with holding Americans in perpetuity had proven cumbersome, expensive, and politically unsound; now all they hoped for was an equitable swap.¹⁹

A general exchange, however, remained elusive. Congress had vested each of its departmental commanders-in-chief with the authority to conduct exchanges in July 1776, but unlike Howe who had sole custody of his prisoners, Washington had little actual authority over the captured Britons. The prisoners from Canada were dispersed in isolated communities between Connecticut and Virginia, and even Massachusetts boasted a sizable number of Scottish prisoners who had mistakenly sailed into Boston harbor in June unaware that Howe had already evacuated the city. All of these prisoners were technically under the jurisdiction and care of the newly created congressional Board of War headed by John Adams, but in reality they were in the hands of local committees of safety that were loathe to surrender them without any guarantee of reimbursement or the promise of preferential exchange for captured community members. Despite numerous requests, the Board of War could not obtain accurate lists of the number and character of British prisoners in state custody. Confusion reigned.²⁰

Dispersing the prisoners had spared Washington the nuisance of their accommodation and had prevented the British from attempting any rescue operations, but

¹⁹ See for instance the *Virginia Gazette*, September 20th, 1776; *The Massachusetts Spy*, November 27th, 1776; French and several of his officers had been in close confinement since late August for the crime of "Libell [*sic*] against the State of Connecticut." Cohen, ed., "The Connecticut Captivity of Major Christopher French," 183, 157; Barrington to Howe. November 12th, 1776. Carleton Papers. Reel 3, No. 325. DLAR.

²⁰ Congress established their supremacy in all matters relating to the exchange of prisoners of war captured by congressional forces in May of 1776 but clarified the role of the army's commander in chief in these exchanges on July 22nd, 1776. *JCC*, 4:362, 5:599. John Hancock informed Washington that he was empowered to negotiate the exchange of prisoners on July 24th, 1776. Hancock to Washington. Philadelphia. July 24th, 1776. *PGW*. Two British transports ships, the *George* and the *Annabella* were captured in Boston Harbor on June 16th, 1776 carrying two companies of the Second Battalion 71st Highland Regiment of Foot commanded by Lieutenant Colonel Archibald Campbell. Major General Artemas Ward estimated their number at 210 officers and men. Ward to Washington. Boston. June 16-17th, 1776. *PGW*; The Board of War to the Maryland Convention. August 6th, 1776. Philadelphia. *LMCC*, 2:39-40.

now Washington wanted them back. Desperately concerned with personal propriety and the appearance of professionalism, Washington worried to Hancock about "the difficulty that will attend the proposed exchange on account of the dispersed and scattered state of the prisoners in our Hands." If he failed to uphold his end of the bargain, his personal honor and reputation, as well as that of the Continental army, would be at stake. All he could do was urge Congress "more than once" to establish a European-style commissary of prisoners "to superintend & conduct in such instances" the exchange of the prisoners. His pleas fell on deaf ears. In September, Washington explained his situation to Howe: "The exchange of privates, I shall take the earliest opportunity [*sic*] in my power to carry into execution but they being greatly dispersed through the New England governments, in order to their better accomodation [*sic*], will prevent it for some time."²¹

Occupying a burned-out, pestilence-infested, ruin of a city bulging at the seams with soldiers, sailors, refugees, and the flotsam and jetsam of prostitutes, vagabonds, and ne'er-do-wells that thrived in the company of early modern armies, Howe did not have the luxury of time. Where would he house these men, how would they be fed, who would tend their wounds? Even before the capture of Fort Washington, Howe chastised Washington for his apparent torpor: "I beg Leave to take this Opportunity of remonstrating against the Delay on your Part in the Exchange of Prisoners." Howe was particularly anxious because he had received reports that "many Officers in your Power are still exposed to the Confinement of common Goals." Other more recent prisoners had been shuttled away to New Jersey instead of being immediately sent in for exchange. Given Washington's earlier acquiescence to their agreement for the exchange of

²¹ Washington to Hancock. Harlem Heights. September 25th, 1776. *PGW*; Washington to Howe. Harlem Heights. September 23rd, 1776. *PGW*.

prisoners, such behavior was contrary to "the Custom of War" in Howe's mind. Here the British general knew he had leverage over Washington. By suggesting that the American general had violated European customs of war, Howe highlighted the American amateurism that Washington had tried so hard to efface. Howe hoped that his reproof would prod the Americans to action before overcrowding and disease claimed the lives of his prisoners.²²

Howe struck a nerve. Washington was insulted, but any feeling of indignation was overcome by shame. His British antagonist was in the right. As the commanding general, Washington was responsible for the actions of his subordinates, and his inability to produce the prisoners in a timely fashion advertised his impotency to a man he highly esteemed. In an apologetic letter to his adversary on November 9th, Washington regretted "that it has not been in my power to effect the proposed Exchange of Prisoners before this time" and he assured Howe that "it has not arisen Sir from any design on my part...their disperse[d] *[sic]* situation for their better accommodation *[sic]* has been the reason of the delay." He would later confess to Hancock that he had felt "much embarrassed on the Subject of Exchanges." Washington was not entirely forthcoming in his *mea culpa* however. The truth of the matter was that the prisoners had become a valuable commodity to the communities that housed them. With many of their agricultural laborers and tradesmen doing duty with the army or the militia, these communities desperately needed the prisoners to reap the harvest and to maintain their struggling economies. Local committees of safety were also under tremendous pressure to obtain the release of their constituents captured during Howe's rush through New York. If they simply handed the prisoners over to Washington, he would likely exchange

²² Howe to Washington. Dobbs Ferry, NY. November 8th, 1776. *PGW*.

them for men who had been longest in captivity rather than for their friends and relations.²³

To complicate matters, Congress had also created a loophole in its prisoner exchange policy allowing individual states to conduct independent trades with the British. Although they were theoretically only allowed to exchange prisoners captured by their state forces or militia, the temptation to swap some congressional prisoners was real. In the absence of a congressional commissary of prisoners to keep track of how many there were and under whose jurisdiction they belonged, state governments in Rhode Island, Connecticut, and Massachusetts regularly and eagerly bargained with the British without congressional oversight.²⁴

Saddled with a Congress that was overburdened, ineffectual, untutored in the customs of war, and deeply suspicious of consolidated power, as well as state governments that appeared to be conducting their own personal wars with the British, Washington was forced to face the reality that this conflict was not living up to his expectations for restrained, efficient, and "civilized" warfare. Nonetheless, he dashed off

²³ On August 1st, Howe expressed his regret that the two men had never met in person. Washington replied on August 1st that he possessed "a high sense of the honor and satisfaction I should have received from your personal Acquaintance." Howe to Washington. Staten Island. August 1st, 1776; Washington to Howe. New York. August 17th, 1776. *PGW*; Washington to Howe. White Plains. November 9th, 1776. *PGW*; Washington to Hancock. Morris Town. March 1st, 1777. *PGW*.

²⁴ At this stage in the conflict, state-organized exchanges were widespread. Other states, besides those listed, were almost certainly conducting independent exchanges at this time as well. For a discussion of state-based exchanges see Dixon, "Divided Authority," 250-251. On July 22nd, 1776, Congress resolved "that each state hath a right to make any exchange they think proper for prisoners taken from them or by them." The Rhode Island Assembly authorized Capt. David Gifford on December 23rd, 1776, to procure "three prisoners of war to exchange for three soldiers lately belonging to his company, now detained as prisoners." John Russell Bartlett ed., *Records of the Colony of Rhode Island and Providence Plantations* (Providence, RI: A.C. Green and Brothers, 1856), 10 vols., 8:72-73. Connecticut empowered Nathaniel Shaw to "propose and negotiate an exchange of...prisoners" on December 13th, 1776. Force, *American Archives*, 5th series, 3:1207. On the same day, the Massachusetts Council wrote Governor Trumbull: "We understand there is a cartel now at New-London for the exchange of prisoners; and as we have a number of them in this State, we wish to be informed upon what terms the exchange is to be made." Force, *American Archives*, 5th series, 3:1209.

numerous letters to the governors, committee members, and councilmen of the surrounding states imploring them "to have all the Continental prisoners of War, (belonging to the Land Service) in the different Towns in your State, collected and brought together to some convenient place, from whence they may be removed hither when a Cartel is fully settled." Cajoling Connecticut's Governor Trumbull, Washington pleaded that the return of the "prisoners as early as possible will much oblige me." Although the governor was pleased to comply with the general's wishes, he wondered whether "such of the Privates as are Mechanics, & some Others who have a strong Inclination to Abide & remain in the Country, must be forced & Obligated to return & be exchanged." He also wanted some assurance "that the Charge & expence Attending the keeping [of] the prisoners" would be reimbursed. Again, Washington was powerless to do anything other than request Congress's opinion on the matter. Washington was aware that allowing some of the prisoners, the skilled tradesmen useful to the war effort and those disinclined to return to the drudgery of army life, to remain unexchanged was a breach of the articles of capitulation "on the part of General Montgomery for those that were taken in Canada," but the final decision lay with Congress. While Congress procrastinated, all Washington could do was wait. And that was exactly what the American prisoners in New York feared most.²⁵

²⁵ For the best account of Congress's lack of knowledge of military affairs see Kenneth Schaffel, "The American Board of War, 1776-1781" (Ph.D. diss., City University of New York, 1983), chapter 1; Washington to Trumbull. Harlem Heights. September 26th, 1776. *PGW*. See also Washington to the New Hampshire Council. September 29th, 1776. Harlem Heights, NY. Nathaniel Bouton, et al., eds., *Documents and Records Relating to New Hampshire, 1623-1800* (Concord, NH: Edward A. Jenks, 1874), 40 vols., 8:367-368; Trumbull to Washington. Lebanon, CT. October 2nd, 1776 *PGW*; Washington to Trumbull. Harlem Heights. October 8th, 1776. *PGW*; On October 14th, 1776 Congress postponed a vote on a resolution that would have included all of the British prisoners, regardless of their skilled status, in the proposed exchange. *JCC*, 6:870.

When the Fort Washington prisoners arrived in lower Manhattan on November 18th, they were immediately confined in the abandoned churches, meeting houses, and sugar refineries that dotted the tip of the island. There they discovered the sunken faces and emaciated bodies of comrades captured at Brooklyn and Kip's Bay, as well as in Canada. Imagine their horror at seeing the physical embodiment of the fate that awaited them. British Captain Mackenzie found the prisoners' "desponding appearance enough to shock one." Just days before the new prisoners arrived, captured colonels Samuel Miles and Samuel Atlee alerted Washington of the men's "truly deplorable" situation. Although the British had accepted the American officers' parole and allowed them to draw lines of credit for their subsistence and suitable housing, the enlisted men were closely confined and inadequately provisioned. In the colonels' dire appraisal of the men's circumstances, only "Death must relieve [sic] them from their present miserable [sic] Situation." The disparity between the officers' confinement and that of their men could not have been starker. American General Charles Lee, a former officer in the British army, penned a concerned missive to Howe on November 26th in which he informed the Briton that "the Americans whom chance has thrown into your hands, are as We are assured, confined closely in Prison" and allowed only "short allowance," while "those of yours who fall into our hands have the full liberty of the Towns or villages allotted to em [sic] and credit for a comfortable and ample subsistence." In disbelief, Lee remarked, "if this mode can be approved of by Mr. Howe, He is strangely altered. It is neither consonant to humanity nor the eternal rules of Justice." Lee was hopeful that "the fact is exaggerated."²⁶

²⁶ According to Captain Samuel Richards of the Continental army, the sugar houses had been used to house British prisoners prior to the British occupation. *Diary of Samuel Richards, Captain of the Connecticut Line* (Philadelphia, 1909), 31; Berkshire County Committees of Safety and Inspection to Washington. Pittsfield, MA. June 7th, 1776. *PGW*; Mackenzie, *Diary of Frederick Mackenzie*, 1:104; Cols.

The accounts were no exaggeration; the enlisted soldiers were starving. General Nathanael Greene received intelligence of their condition on November 11th, and he immediately informed Washington that "our prisoners in the City are Perishing for want of sustenance [*sic*]*—*having only half allowance of bread and Water*—*They are reduced to the necessity to beg and instead of receiveing [*sic*] any Charity are called damn Rebblers [*sic*] and told their fare is good enough." That fare officially consisted of a two-thirds portion of the rations provided to British soldiers on active duty, but in actuality Greene's estimation was not far off. William Slade's prison diary is a litany of hunger, "sorrow and sadness." When lucky, Slade received three-fourths of a pound of pork and two pounds of bread intended to last two days: an amount well below the two-thirds allotment. At other times, he had only "1/2 lb of pork a man, 3/4 of bisd [hardtack biscuits], a little peas and rice, and butter" to carry him through three days of confinement. On the second day he reported having "verry [*sic*] little to eat." Day three was "spent in hunger." Howe would later claim that "the Allowance of Provisions to prisoners, from the Beginning of my Command, has been equal in Quantity and Quality to what is given to our own Troops not on Service," but even he must have known that

Samuel Miles and Samuel Atlee to Washington. New York. Draft of an undated letter, but likely written on November 12th, 1776, enclosed within Washington to Hancock. Heckensec [*sic*], NJ, November 19th, 1776. *PGW*. Unlike generals Gage and Carleton, who refused to acknowledge any rank that did not derive from a king's commission, Howe, likely animated by a desire for reconciliation, ordered Loring to treat the men according to their rank and station. Pennsylvania officer Daniel Broadhead heard that the American officers in New York were "well treated." Daniel Broadhead to Unknown recipient. September 5th, 1776. *Pennsylvania Archives: Selected and Arranged from Original Documents in the Office of the Secretary of the Commonwealth*, Samuel Hazard, ed., (Philadelphia: Joseph Severns & Co Publisher, 1853), Series I., 12 vols., 5:23. See also Burrows, *Forgotten Patriots*, 16; Cox, *A Proper Sense of Honor*, 218-19; Charles Lee to Howe. November 26th, 1776. Schoff Revolutionary War Collection. Box 2. The Clements Library. University of Michigan.

graft, thievery, and spoilage ensured that the men rarely, if ever, saw their entitled allotment.²⁷

Contrary to what the Americans, and latter-day historians, alleged, the prisoners' deplorable situation was not the result of premeditated British cruelty; Howe was operating within customary parameters for the treatment of enemy prisoners in Britain. Regrettably for the captured Americans, the British army policy of allowing prisoners only two-thirds rations was predicated on faulty logic. The policy makers presumed that a soldier could subsist on a diet of seven pounds of beef and seven pounds of bread a week, augmented by a smaller quantity of butter or cheese, oatmeal, and peas. Soldiers who were expected to march upwards of fifteen miles a day carrying sixty pounds of arms, accoutrements, powder, and ball would not last for long on such a paltry portion. Even in peacetime, the British soldier's diet was notoriously inadequate. The dearth of leafy greens and fresh citrus regularly resulted in cases of malnutrition and scurvy. To counteract this predicament, the army permitted, and indeed expected, soldiers to augment their provisions either through independent labor in peacetime or foraging in times of war. Pilfering civilian property was officially discouraged, and occasionally capitally punished, but British officers often turned a blind eye to a little creative procurement on the part of their men. In garrison, officers actively encouraged their soldiers to tend their own gardens in order to provide the nutrients their bodies craved. Confined to their prisons, the American soldiers had no such opportunity for supplementation. The men would have to make do with their allowance, which even Washington admitted was likely "as good as the situation of General Howe's [*sic*] Stores

²⁷ Greene to Washington. Fort Lee, NJ. November 11th, 1776. *PGW*; The Diary of William Slade, November 18th, 1776, in Dandridge, *American Prisoners*, 495; Howe to Washington. February 5th, 1778. Philadelphia. *PGW*.

will admit," until they could be exchanged. Under these conditions, Edwin Burrows estimates that most of the prisoners would have lost a pound of body weight per week of captivity.²⁸

By the time the Fort Washington prisoners arrived in the city, the situation in New York's jails had grown desperate. British Captain Mackenzie described the prisoners as "very Sickly, owing to their want of Clothing and necessaries, salt provisions, confinement, foul air, & little exercise." Evincing characteristic metropolitan disdain for all things provincial, Mackenzie described the prisoners as "such low spirited creatures, particularly the Americans, that if once they are taken sick they seldom recover." The only anodyne for "their dirty, unhealthy, and desponding appearance" was a fresh supply of clothing and provisions. Perhaps aware that his Hessian auxiliaries were at least partly responsible for the lamentable condition of the prisoners' wardrobes, Howe presented each man with a fresh linen shirt. Much like Carleton's earlier gift to the Americans captured in Canada, the shirts were much appreciated, but a single layer of thin linen would do little to keep out the coming winter cold. As Miles and Atlee apprized Washington, "unless a speedy exchange takes place, or some Method fall'n upon to furnish them with Cloathing [*sic*], Death must relieve [*sic*] them from their present misserable [*sic*] Situation." Had Howe been able to swiftly exchange the prisoners, as would have been the case in Europe, their nutritional and sartorial deficiencies, though

²⁸ Danske Dandridge claimed that British provost martial Cunningham was responsible for starving the prisoners to death. Dandridge, *American Prisoners of the Revolution*, 2. More recently, Edwin Burrows has argued, "Although the British did not deliberately kill American prisoners in New York, they might as well have done." Burrows, *Forgotten Patriots*, xi; Brumwell, *Redcoats*, 151-53. See also Michael N. McConnell, *Army & Empire*, chapter 6. Cols. Atlee and Miles informed Washington that the prisoners "have no means of adding Vegetables [*sic*] or any other nourishing article for want of Cash." Washington to Hancock. Heckensec [*sic*], NJ. November 19th, 1776. *PGW*; Washington to Hancock. Heckensec [*sic*], NJ. November 19th, 1776. *PGW*. According to Burrows, "prisoners of war should have received 1,640 calories per day. Even if he always got every scrap allotted him, a completely sedentary prisoner weighing 160 pounds would lose about one pound of body weight per week." Burrows, *Forgotten Patriots*, 19.

uncomfortable, would have been innocuous. Instead, the men languished in the vain hope that Washington would expedite their release.²⁹

Surprisingly, neither Washington nor the prisoners blamed Howe for their predicament; Congress was clearly not doing its part. Washington, who possessed "too high an Opinion of his Humanity," was confident that Howe, as a gentleman and a man of honor, would never "willingly add the Calamity of Famine to that of Captivity." As a professional soldier, Washington knew too well the challenges of feeding an army in a devastated environment while conducting an active campaign. Howe was doing the best he could under the circumstances; Congress's inaction on the other hand was bordering on negligence. Upon seeing "the horrid dismal situation of our poor privates in the Hospitals in Newyork [*sic*]," Joseph Webb of Connecticut expressed the common sentiment that "the Country does too much neglect something to be done for 'em." After all, the British, through the auspices of David Franks, had provided their prisoners confined by Congress with "provisions and other necessities" at the expense of the crown for nearly a year. As was European custom, Howe expected the American commander to either supply the American prisoners or provide sufficient reimbursement. On this point, Washington and Howe agreed, but without Congress's intervention, how could he provision these prisoners when he could barely afford to provide for his own army? Colonels Attlee and Miles had the solution. Congress should appoint an agent, such as David Franks, to open a line of credit with British merchants in New York to furnish the prisoners with the necessary supplies. The suggestion was consistent with Washington's

²⁹ Mackenzie, *Diary of Frederick Mackenzie*, 1:103; Washington to Hancock. Heckensec [*sic*], NJ. November 19th, 1776. *PGW*.

understanding of European practice, and he dutifully forwarded it to Congress, insisting that "Humanity and the good of the service require it." Congress predictably ignored it.³⁰

Unlike Congress, Howe could not afford to remain aloof from his prisoners' suffering. On December 8th, a group of American officers who were enjoying the freedom of their paroles alerted Howe that "the State of the Sick & wounded Prisoners is of too melancholy a kind for Recital; and the consequences of a General Contagion to be dreaded." Both smallpox and typhus were present among the prisoners. Fearing the spread of the diseases among his own troops in densely populated lower Manhattan, Howe dispatched Colonel Samuel Miles to Congress in order to "expedite the Exchange of prisoners." Howe's adjutant assured Miles that "the General has every Disposition to promote" the exchange. Perhaps an eyewitness to the effects of congressional indifference would persuade that body to act.³¹

In their defense, the members of the Board of War were doing everything in their limited power to collect the British prisoners from the various states for exchange, but their march north was hampered by delay after delay. Contrary to congressional instructions, several states had already enlisted British prisoners and were unwilling to return the men to face execution for desertion. Two such prisoners, Robert Colefox and Richards Williams, claimed to prefer "perpetual imprisonment, rather than to be exchanged & returned to the British Army or Navy." Rowland Chambers hoped that

³⁰ Washington to Atlee. Newark, NJ. November 25th, 1776. *PGW*; Joseph Webb to unknown recipient. Wethersfield, Ct. December 28th, [1776?]. MSS 81.1.654. LSC; *JCC*, 3:375. See also, Stern, *David Franks*, 117. On Washington's inability to provide his own soldiers with food and funds see Washington to Hancock. New Ark [*sic*], NJ. November 23rd, 1776. *PGW*; Washington to Hancock. Heckensec [*sic*], NJ. November 19th, 1776. *PGW*. See also Washington to Atlee. Newark, NJ. November 25th, 1776. *PGW*.

³¹ Colonels Magaw, Miles, and Atlee to Howe. New York. December 8th, 1776. Carleton Papers. Reel 3 No. 341. DLAR; Capt. Robert Mackenzie to Colonels Magaw, Atlee, West, and Burd. New York. November 25th, 1776. Carleton Papers, Reel 3, No. 331. DLAR.

Governor William Livingston of New Jersey might be able to prevent their exchange on the grounds that they would "undoubtedly" join the American army, despite their being "considered as Continental Prisoners & Wholey [*sic*] at the disposal of the Congress." Livingston interceded with Congress and the men were not sent forward for exchange. Others were delayed by weather, impassable roads, or misunderstandings.³²

With no immediate prospect of an exchange on the horizon, Howe opted to confine 750 prisoners on board the troop transport ships *Whitby* and *Grosvenor* in an effort to relieve the city's overcrowded prisons. The ships were emptied, cleaned, and prepared for the reception of the prisoners. William Slade was among the Fort Washington prisoners who shivered in the cold while waiting to enter the *Grosvenor* in early December. Slade reported "much confusion" as the over five hundred prisoners clamored to claim a berth below decks. Once on board, Slade and his comrades spent a "verry [*sic*] long" night in hunger and sorrow. This was just the beginning of his suffering. While British officers and soldiers celebrated Christmas 1776 with fine repasts and orotund toasts, the Americans aboard the *Whitby* endured a night "spent in dying grones [*sic*] and cries." By the time Slade was finally released, as many as two-thirds of his companions had perished from disease, exposure, and starvation. Although Howe could never have imagined the repercussions of his actions, his decision to transform the transports into floating prisons set the precedent for a system of prisoner confinement that

³² Peters to Washington. Philadelphia, PA. November 19th, 1776. *PGW*; Rowland Chambers to Gov. William Livingston. Bridgewater, New Jersey. October 14th, 1776. *PCC*, Item 68, Page 321. The two men were native New Englanders who had been captured and impressed into British service before falling into American hands. *JCC*, 6:919. Richard Peters instructed the Maryland Council of Safety "to collect all the British Prisoners in the State of Maryland and have them properly escorted to Fort Lee that an Equal number of our suffering Countrymen may be relieved from Imprisonment and Distress." They were to be marched to Fort Lee on November 19th, but the men were not immediately sent forward because the Council was informed that the fort was in the hands of the enemy. *Archives of Maryland* (Baltimore: Maryland Historical Society, 1883-2000), 99 vols., 12:456, 486-7; Haffner, "The Treatment of Prisoners of War by the Americans," 296.

Edwin Burrows estimates claimed the lives of 18,000 American soldiers, sailors, and civilians: more than half of all Americans who fell into British hands. According to Colonel Thomas Hartley of Pennsylvania, few survived to tell the "doleful Story of their Captivity and Distress."³³

Prison ships were not novel examples of British sadism intended to punish refractory rebels; the crown had employed them to house French and Spanish prisoners in the past to great effect. Although less salubrious than their land-based equivalents, the prison hulks anchored in the Thames and in the coastal towns of Portsmouth, Yarmouth, Plymouth, and Chatham during the Seven Years' War were well supplied, frequently cleaned, and rarely overcrowded. Sheldon Cohen has suggested that the death rate of prisoners on board these ships only slightly exceeded that of conventional prisons. The conditions in the New York prison ships deteriorated so rapidly because the sheer numbers of prisoners the British possessed, over 4,500, was compounded by Congress's inaction. When it came to doling out Howe's few available resources, the cries and lamentations of the American prisoners were drowned out by those of the 14,000 soldiers and 11,000 civilians clamoring for the general's attention. The prisoners were

³³ Slade was released on January 25th, 1777. The Diary of William Slade of New Canaan Ct in Dandridge, *American Prisoners*, 498, 500-01. For Burrow's calculations see Burrows, *Forgotten Patriots*, 64, 197-201, 315-317, n. 7-12. Howard Peckham argued for a significantly lower number. In his "conservative guess," 18,152 Americans were imprisoned of whom 8,500 perished. Although they disagree on overall numbers, Peckham and Burrows do not significantly disagree about the overall death rate of American prisoners. For Peckham, 47% percent of American captives died in British custody, while Burrows believes the number closer to 60%. Based on their calculations, it seems safe to assume that the prisoners' death rate was around 50%. Peckham, ed., *The Toll of Independence*, 132. On British officers celebrating Christmas see Ira Gruber, *John Peebles' American War: The Diary of a Scottish Grenadier* (Mechanicsburg, PA: Stackpole Books, 1998), 10, n. 40; Hartley to Washington. York Town, PA. February 12th, 1777. *PGW*.

Washington's problem. Unfortunately for the British, that was not how most Americans viewed the situation.³⁴

It did not take long for news of the prison ships, and the suffering men they contained, to spread beyond New York. Timothy Parker of Connecticut managed to secret a letter out of the *Whitby* in early December to inform Governor Trumbull that "there are more than two Hundred and fifty prisoners of us on board this Ship (some of which are Sick & without the least assistance from Physician Drugg or Medicine) all fed on two thirds allowance of salt provisions and all Crowded promiscuously together without Distinction or Respect to person [,] office or Colour in the Small room of a Ship Between Decks." In his opinion these "Miserable Circumstances" would lead to "a kind of lingering Inevitable death, Unless we obtain a timely and Sensible Release." Not only had the British imperiled the men's health, but they had also undermined their racial and class identities by suffering gentlemen to share their confinement with those beneath them. The *Pennsylvania Evening Post* quickly picked up the story and stunned its readers with an account of "Captains and Lieutenants in the Continental service...huddled together between decks in a prison-ship, with Indians, Mallattoes, Negroes, &c." After enumerating a litany of abuses and insults, the article's author concluded that British "inhumanity has extended beyond this life, for the dead have been thrown out upon the highway and open fields, with this impious and horrid expression, "D——n the rebel, he's not worth a grave." The moral of the story was apparent to all: the British considered Americans, even officers possessing commissions from Congress, to be rebels unworthy of the protections of "civilized" warfare. A protracted and painful death from starvation, dehydration, or disease awaited all those who opposed their lawful

³⁴ Cohen, *Yankee Sailors in British Gaols*, 18-22; Burrows, *Forgotten Patriots*, 277 n.15.

monarch. By his decision to utilize prison ships, occasioned by the honest intention to relieve the overcrowded conditions of New York's improvised prisons until Congress and Washington could carryout their side of the exchange, Howe unwittingly assumed the culpability for a situation not of his making.³⁵

Colonel Miles, who knew too well the true authors of the prisoners' misfortune, continued to maintain that Congress, not the British, was responsible for the prisoners' suffering. Miles expressed his frustration to Elias Boudinot in July 1777:

"Notwithstanding the reasonableness of the purposal [*sic*] I brought from Genl Howe for an exchange of Officers, & Genl Washington[']s sentiments concerning there with, the Congress have to my great surprise refused to comply with it." He feared that "this mark of their injustice & want of common Humanity will...be a greater discouragement to the Army than they at Present apprehend." Who would enlist in an army governed by civilians who were incapable of conducting a simple exchange of prisoners? Were American soldiers to perish in captivity while Congress appointed yet another committee to consider their plight? A veteran of the Seven Years' War, Miles believed that committees had no place in warfare. He and his officers had been "treated as genteely [*sic*] by the Hessian & highland officers as we could expect or have wished" and General Howe had been "kind enough" to allow the men as much of their personal "Bagage [*sic*] as is necessary for our health & comfort." The same could not be said for Congress. Despondent, Miles wondered to a friend in Pennsylvania: "God knows what your people in power [Congress] think of us if they think of us at all." In a scathing critique of

³⁵ Timothy Parker to Trumbull. December 9th, 1776. Prison Ship Whitby, NY. Trumbull Papers. Connecticut State Library. Vol. 5. Part II. Doc 278a; *Pennsylvania Evening Post*, January 9th, 1777. The article was picked up by newspapers in numerous other states. See for example, *Connecticut Gazette*, January 17th, 1777; *Boston Gazette*, January 27th, 1777; *Freeman's Journal*, January 28th, 1777; *Essex Journal*, January 30th, 1777. Burrows, *Forgotten Patriots*, 283, n. 8.

Congress's management of the war, Miles raged: "I do believe that no prisoners ever were treated with more inhuman Cruelty than our's have been by their Employers."³⁶

Miles' indictment of republican government's management of the war was muffled by the deluge of propagandistic accounts castigating the British as barbarians and butchers that inundated American newspapers, pamphlets, and periodicals that winter. By the spring of 1777, revolutionary Americans had seen enough of the realities of this war to know who their enemies were and what they were capable of. New Jersey's governor William Livingston summarized the prevailing American opinion when, in a fiery fit of rhetorical hyperbole, he accused the British army of having "butchered the wounded, asking for quarter; mangled the dying, weltering in their blood; refused to the dead the rights of sepulture; suffered prisoners to perish for want of sustenance [and] violated the chastity of women." In the war of words, the Americans held the high ground: a position that would have dire consequences for how revolutionary Americans came to envision the enemy in their hands.³⁷

"The rage of tory-hunting": American Suppression of Loyalism, 1776-1777

Away from the fury of the fighting around New York and the frenetic debates of congressional committee rooms in Philadelphia, American communities from Georgia to

³⁶ Miles did not fully absolve the British of blame, he noted that they could and should have done more to ease the suffering of the American enlisted prisoners. Miles to Boudinot. July 24th, 1777. MMC 721. Elias Boudinot Papers. LOC; Miles to Joseph Reed. Flatt Bush, NY. September 1, 1776. Samuel Miles Papers. B M589. APS; Miles to unknown Pennsylvania recipient. Flatt Bush, NY. April 6th, 1777. Samuel Miles Papers. B M589. APS.

³⁷ *Pennsylvania Packet*, March 4th, 1777. In a similar vein, an article dated December 15th, 1776 described "the Country from Princeton to the Delaware" as a "Scene of Blood shed and Rapine, Humanity forces a Sigh for the suffering Women and Children. The Hessians are Robbers, the English Troops Brutes; for while the first were breaking open Trunks and Draws, the others were ravishing the unfortunate Girls, who, having no Place to fly to, could not escape their Clutches. Such are the Horrors of War." *Freeman's Journal*, January 21st, 1777.

Massachusetts grappled with their own local foes and struggled in their own "internal wars." Revolutionary Americans were under no illusion that their cause enjoyed unanimous support. Throughout the imperial crisis preceding the advent of open hostilities, revolutionary sympathizers confronted members of their communities who opposed the protests with violence. Derogatively termed "tories" by their more radical neighbors, these men and women of all social orders sought stability above all else. From the vantage point of those targeted by revolutionary crowds brandishing clubs, dumping tea, burning effigies, and dolling out tar and feathers to those who opposed them, the quest for stasis in the face of entropy was not only reasonable, it was requisite. From the revolutionary perspective, however, the loyalists' rigid adherence to the reign of tyranny was deluded and dangerous; loyalists could not trade their own liberty for security without imperiling everyone else's along the way.³⁸

Nevertheless, when war came, the revolutionary leadership believed that the loyalists posed little imminent threat to the "glorious cause." A decade of marginalization, insult, and abuse had degraded the probability of a cohesive loyalist community. There were of course certain prominent loyalists who, through their wealth and connections, might prove a corrupting influence in the community by eliciting support for the British ministry, but these were few and far between. Offering violence to those deceived by corrupt ministers' promises and prevarications was cruelty not to be countenanced; war was no time for personal vendettas or petty scores. The legitimacy of

³⁸ For a discussion of how "internal wars" differ from civil or revolutionary wars see Robert M. Calhoon, *The Loyalist Perception: and Other Essays* (Columbia, SC: University of South Carolina Press, 1989), 155-6. For the theory of "internal wars" see Harry Eckstein, "On the Etiology of Internal Wars," *History and Theory*, No. 4 (1954-1955), 133-263. Historians now estimate that as much as 19% of the white American population remained loyal to the crown during the war. Paul H. Smith, "The American Loyalists: Notes on Their Origination and Numerical Strength," *William and Mary Quarterly*, 3d Series., 25 (1968), 258-77. See also, Middlekauff, *The Glorious Cause*, 564.

the American cause rested upon the restrained conduct of those in its service. Upon assuming the command of the army at Cambridge, Washington issued a proclamation making it criminal to "molest any of those people commonly called Tories." Upon conviction, officers would forfeit their commissions and soldiers would "suffer corporeal punishment." When John Lovell, the master of the Public Grammar School in Boston, was seized by American officers who, in his words, entered his house "with all the ravings of dogs just up with the game," Washington ordered him released, and Lovell was allowed to walk the streets of Boston "as a free subject of the King of Britain." Even those loyalists who had held positions of authority in the British colonial bureaucracy before the war were protected. In December 1775, General William Heath ordered Walter Logan, the former customs officer from New Jersey then residing in Needham, Massachusetts, to be conducted "without violence or Insult" to his headquarters for examination. Once arrived, Heath granted Logan a lenient parole, and he was eventually allowed to depart for England with his family. Far from fearing them as a fifth column, Washington and the revolutionary leadership conceived of the loyalists as objects of pity and protection in the opening stages of the conflict.³⁹

Armed with muskets and on the march, loyalists looked less pitiable to the revolutionary governments of Virginia and North Carolina. During the fall of 1775 and

³⁹ Piers Mackesy, *The War for America, 1775-1783* (Lincoln, NE: University of Nebraska Press, 1964), 36; John Lovell to Major Thomas Moncrieffe. August 7th, unknown year (likely 1779 or 1780). Vol. 229, Fol. 15. Sir Henry Clinton Papers. Clements Library; John Lovell to Major Thomas Moncrieffe. August 7th, unknown year (likely 1779 or 1780). Vol. 229, Fol. 15. Sir Henry Clinton Papers. Clements Library. Lovell was later arrested, "braking [*sic*] through Washington's Proclamation" on the false accusation of having been a spy for the British, reportedly propagated by his brother, James Lovell, a former prisoner of the British, and member of the Continental Congress. Eventually released, Lovell decamped to Halifax where he died of natural causes in 1778. See also Memorial on behalf of John Lovell. AO13/24/325-328. National Archives of the United Kingdom, and Lorenzo Sabine, *Biographical Sketches of Loyalists of the American Revolution* (Boston, MA: Little, Brown and Co, 1864), 2 vols., 2:30; Heath to Lieut. Aaron Pain. December 16th, 1775. Cambridge, MA. Heath Papers. MHS. Vol. 1, p. 104. See also Sabine, *Biographical Sketches of Loyalists*, 2:25.

winter of 1776, the royal governors John Murray, the Fourth Earl of Dunmore, and Josiah Martin erected the king's standard and called all loyal and able bodied men to arms. By issuing a proclamation emancipating all slaves belonging to rebel masters who took arms for the king, Dunmore was able to assemble a force of liberated slaves—upon whom he bestowed grandiloquent moniker the Royal Ethiopian Regiment—as well as a small contingent of loyal Virginians, British regulars, and recent Scottish immigrants. The outpouring of white loyalist support Dunmore hoped for never materialized however. When Virginia militia under the command of Colonel William Woodford delivered a well-executed volley devastating the loyalist forces at the Battle of Great Bridge on 9 December, 1775, the earl was forced to decamp to a British warship in the Chesapeake Bay. In the aftermath of the battle, several "disaffected persons and Negroes" fell into Woodford's hands. Although his "Instructions Mention[d] proceeding against Slaves taken in arms, according to the rules of War," he and his officers were of the "Unanimous Opinion" that they should be summarily executed "to make an Immediate Example of them." Accountable to the collective wisdom of the colony's civilian leadership, Woodford requested new instructions. While awaiting the orders of the Committee of Safety, Woodford did order one Scottish loyalist named Hamilton "to be coupled to one of his Black Brother Soldiers with a pair of Handcuffs" as a punishment. He proudly declared that such treatment "shall be the fate of all those Cattle" captured in the future. Virginia's revolutionary leadership, keen to expose Dunmore as the sole violator of "the practices of war among civilized nations," would not allow white men, no matter how misguided, to be shackled to slaves. They overruled Woodford: ordering the exchange of the regulars and the loyalists and returning the slaves to their masters. With Dunmore's

threatened slave insurrection neutralized, his white followers could be pardoned, his black ones returned to their servile station, and the status quo reestablished.⁴⁰

The situation was much the same in North Carolina. Despite Governor Martin's confidence that loyal North Carolinians would rally to his assistance in droves, fewer than a thousand actually took up arms. This meager force was easily defeated at the Battle of Moore's Creek Bridge in February 1776. In the tense moments following the loyalists' initial abortive assault, American officers promised the men that "they should meet with no bad treatment" provided they laid down their arms. The revolutionaries were good for their word; for the most part. One loyalist recorded that "our private men were all sett [*sic*] at liberty." Upon taking an oath to "Bear true Allegiance to the State of North Carolina," the men were granted "free Pardon and Protection" from their captors. Their officers, whose influence was too great to be allowed to remain in the colony, were less fortunate. Confined in Halifax's "cold dirty jail without fire or even a seat to rest upon," the men endured "almost all the inconveniences inseparable from the state of prison." Within a few weeks, however, they were paroled within the Halifax town limits. Twenty-six of the principal officers were then dispatched to Philadelphia to prevent their involvement in any future disturbances, but all were eventually paroled and exchanged. The Provincial Congress assured their prisoners and their constituents alike "that every

⁴⁰ Jason Sharples, "The Flames of Insurrection: Fearing Slave Conspiracy in Early America" (Ph.D. diss., Princeton University, 2010), 312-320 and McDonnell, *The Politics of War*, 162; William Woodford to Edmund Pendleton. Great Bridge, VA. December 5th, 1776. Robert L. Scribner and Brent Tarter, eds., *Revolutionary Virginia: The Road to Independence* (Charlottesville, VA: University Press of Virginia), 7 vols., 5:57. For Woodford's "instructions" to treat captured slaves "according to the rules of war," see Scribner and Tarter, eds., *Revolutionary Virginia*, 4:270-271; Woodford to the President of the Convention at Williamsburg. Great Bridge, VA. December 12th, 1775. Scribner and Tarter, eds., *Revolutionary Virginia*, 5:117; Scribner and Tarter, eds., *Revolutionary Virginia*, 5:436, 127, 286-287, 432. For the most recent study of Lord Dunmore see James Corbett David, *Dunmore's New World: The Extraordinary Life of a Royal Governor in Revolutionary America—with Jacobites, Counterfeiters, Land Schemes, Shipwrecks, Scalping, Indian Politics, Runaway Slaves, and Two Illegal Royal Weddings* (Charlottesville: University of Virginia Press, 2013).

indulgence which humanity and compassion can give, consistent with the duty which we owe to the inhabitants of these Colonies...shall be extended to those whom we have in our power." After their decisive defeat, the loyalists posed little threat to the stability of the colony. The revolutionary leadership hoped that the overt demonstration of compassion and clemency would suffice to maintain loyalist docility in the future.⁴¹

Some loyalists, however, were past pardoning. Acting under the October 6th, 1775, congressional resolution allowing each colony to arrest anyone who might "endanger the safety of the colony, or the liberties of America," local committees and councils of safety imprisoned suspected spies and saboteurs at will. From the outset of hostilities, Philadelphia's "old goal" was crowded with men and women who the Pennsylvania Council of Safety deemed too "dangerous" to stay at large. Three such accused conspirators, John Connolly, Allen Cameron, and John Smyth, who were captured in November 1775 while attempting to raise loyalist forces on the Maryland frontier, suffered a particularly rigorous confinement. In May 1776, Allen Cameron petitioned James Duane for release from his "disagreeable situation." Because he was considered a flight risk, the city's jailer, Thomas Dewees, ordered Cameron "close shut up day and night within a damp Vaulted room." Outraged at his treatment, John Smyth

⁴¹ Journal of an unidentified North Carolina Scottish highlander captured at the Battle of Moore's Creek Bridge. February-1776. Sir Henry Clinton Papers. Vol. 14, Fol. 10. The Clements Library; Journals of the Provincial Congress. *The Colonial and State Records of North Carolina*, (Raleigh: 1886-1905), 30 vols., *Documenting the American South*. University Library, The University of North Carolina at Chapel Hill, 2007. <http://docsouth.unc.edu/csr>,

22:985, hereafter cited as *CSRNC*. An unidentified witness reported that "850 common Soldiers were made prisoners, disarmed and discharged." *CSRNC*, 10:486. The loyalist officer claimed that "the jail was too small for the half of our numbers and [they] were fed on rotten pork and Indian corn meal which was never sifted not fitt [*sic*] for negroes...some of us were seized with a fever and ague and others jail distemper." Journal of an unidentified North Carolina Scottish highlander captured at the Battle of Moore's Creek Bridge. February-1776. Sir Henry Clinton Papers. Vol. 14, Fol. 10. The Clements Library; Minutes of the Provincial Congress of North Carolina. April 5th and 27th, 1776. *CSRNC*, 10:503, 544. In his memorial to Sir Henry Clinton, Captain Angus Campbell claimed he was exchanged in August of 1778. Sir Henry Clinton Papers. Vol. 209, Fol. 5. Clements Library.

castigated Congress: "An imprisonment like this cannot be intended merely as a confinement; it is much more: It is a punishment." Congress disagreed. The men were conspirators, acting under the secret orders of Lord Dunmore, and thus they were not entitled to the customary protections of prisoner-of-war status. Their actions, not their loyalty to the king, necessitated their confinement. Although "close confined," the men were not abused. The austerity of their imprisonment was largely the result of their failure to remunerate Dewees for the expenses of their maintenance. Jailers were not customarily responsible for provisioning their prisoners. Gentlemen with ready cash or lines of credit could enjoy the comforts of home while in captivity, while their impecunious cellmates subsisted on the bare minimum allotted by the community. With more than a touch of hyperbole, Allen Cameron summarized the dilemma: the prisoners could either "pay as far as either our money or credit went, or starve."⁴²

The case of Connolly, Smith, and Cameron was extraordinary however; most loyalists enjoyed a far more benign imprisonment in the first year of the war. William Judd recorded being "Treated very Civilly by the Magistrates" in Philadelphia and "Kindly used by the Sheriff" in October 1775. In early January, Judd even accompanied Dewees "to the City Tavern" where the two men "drank plentifully of Excellent wine at his Expense" before being returned "back to the Goal." As long as all Americans were

⁴² JCC, 3:280. See also Henry J. Young, "Treason and Its Punishment in Revolutionary Pennsylvania," *The Pennsylvania Magazine of History and Biography*, Vol. 90, No. 3 (Jul., 1966), 287-313, 288; John Connolly, "A Narrative of the Transactions, Imprisonment, and Sufferings of John Connolly, an American Loyalist and Lieut.-Col. in His Majesty's Service," *The Pennsylvania Magazine of History and Biography*, Vol. 12, No. 4 (Jan., 1889), 407-420. See also John Ferdinand Smyth, *Capt. Smith, late of Maryland, who has been a prisoner among the rebels ever since Nov. 1775, having lately escaped from them, the following is a sketch of his narrative* (1778). Hatcher Graduate Library. University of Michigan. MICRO-F 2112 no. 16072; Alan Cameron to James Duane. May 13th, 1776. Philadelphia Goal. Pennsylvania State Government Papers. Reel 36. DLAR; John Smyth to Congress. March 15th, 1776. Philadelphia Goal. PCC, Item 78. Vol., 20-1. P. 17. JCC, 4:239, 262; Allen Cameron to the Pennsylvania Committee of Safety. August 3rd, 1776. Pennsylvania State Government Papers. Reel 36. DLAR.

nominally "loyal" to the king, the simple expression of that loyalty was not a crime. Those who opposed the American war effort could be considered "disaffected" or "inimical" to the cause of liberty, but until Congress declared America free and independent of Great Britain, the revolutionary elite did not perceive its loyalist opposition as traitors, insurrectionists, or worse yet, rebels. Some were certainly "dangerous" and deserving of "close confinement," but none posed an existential threat to the American cause.⁴³

The revolutionaries' lenient response to armed loyalism in 1775 and early 1776 would likely have endured had the loyalist challenge remained unsupported and attenuated; but the British had other plans. Based on inflated estimates of loyalist support in the Carolinas, the British dispatched a major expeditionary force to the south with 10,000 muskets to arm those southern Americans who had not forsaken their rightful sovereign. The loyalist host never materialized, and the British fleet was battered and repulsed at Charleston in June 1776, but British policy did not change. When General Howe arrived at New York in late June, he brought arms, munitions, and the promise of royal commissions to those who could rally loyalist support. Throughout the war, the British continually overestimated that support, but unfortunately for the loyalists, so too did the Americans.⁴⁴

Given the results of the Charleston expedition, the revolutionaries might have breathed a sigh of relief. What little loyalist mobilization had materialized was easily

⁴³ The Diary of William Judd. August 10th, 1775-July 11th, 1776. MSS L2010G28.3 M. LSC.

⁴⁴ Mackesy, *The War for America*, 43-45. The British had planned to raise regiments of "provincial" regulars in the past, but with their main force bottled up in Boston, they had been unable to tap the loyalists' military potential. See General Howe's Orders. November 17th, 1775. Boston, MA. *Kemble Papers*, 252-3. See also, Paul H. Smith, *Loyalists and Redcoats: A Study in British Revolutionary Policy* (Chapel Hill: UNC Press, 1964), chapters 1 and 2, and Shy, *A People Numerous & Armed*, 184-185.

swept aside. Instead, they panicked. Girded with British bayonets, the loyalists came to occupy a place of prominence within the revolutionary consciousness after Charleston. Treachery and conspiracy seemed to lurk in every part of the continent. Aware that New York was the intended target of Howe's armada, crowds of alarmed New Yorkers took to the street to locate and punish suspected loyalists. One Continental officer in the city was "disagreeably surprised" by the "very tumultuous noise" of a "mob" dragging a man to jail merely "on suspicion of being a Tory." His commanding officer, General Israel Putnam, complained "of the riotous and disorderly conduct of numbers of the inhabitants" that led to "acts of violence towards some disaffected persons." Fearing unchecked vigilante justice and not content to rely on crowd action alone, the New York Provincial Congress established a "secret committee" in mid June for the purpose of uncovering the loyalists involved in "dangerous Designs and treasonable Conspiracies." Under orders from the committee, a detachment of General Nathanael Greene's brigade roused David Matthews, the city's mayor, from his slumber and made him a prisoner. The secret committee had received intelligence that Matthews and several other "dangerous persons" were involved in a plot to enlist Continental soldiers in the British army. A search of his papers revealed no evidence of a loyalist conspiracy. Hardly placated, the Provincial Council locked the mayor in the city's jail for two month before sending him to Connecticut for confinement. His alleged co-conspirator Thomas Hickey, a soldier in Washington's body guard, was less fortunate. Unshielded by social status and subject to martial law, he was found guilty of "Sedition and mutiny, and also of holding treach'rous [*sic*] correspondence with the enemy." On June 28th, 1776 Private Hickey was executed for betraying a country that would not exist for six more days.⁴⁵

⁴⁵ In May of 1776, the Fairfield, CT, committee of inspection believed it had uncovered "a horrid

With rumors of loyalist plots circulating widely, and the British army on the cusp of capturing New York, Congress acted to criminalize loyalism. Even without a formal declaration of independence, Congress resolved on June 24th that anyone "abiding within any of the United Colonies" who professed allegiance "to the king of Great Britain" was "guilty of treason." Although Congress could not legislate for any of the individual colonies, it was hoped that each would "pass laws for punishing" the king's friends. Without the power or authority to legislate for all, Congress was constrained from enunciating an overarching rubric for how treason was to be determined and punished, thus opening the door for tremendous variation in response ranging from laxity to extreme violence. Believing the threat too great to be checked on the local level, Joseph Hawley implored Elbridge Gerry for a continental treason law: "Did any state ever subsist without exterminating traitors?...It is amazingly wonderful, that having no capital punishment for our intestine enemies, we have not been utterly ruined before now. For God's sake, let us not run such risks a day longer...High treason ought to be the same in all the United States." Hawley did not get his way, but soon after the Declaration of

plot.... laid by the Tories to destroy the people of the country, to co-operate with our enemies in every measure to reduce us." They requested that Washington send "a body of the Army under your command, sent on to the Island, to spread over the whole, and break up the gang." Force, *American Archives*, 4th ser., 6:455; Ensign Peter Clayes to Washington. May 12th, 1776. New York. *PGW*; *Journal of the New York Provincial Congress, Provincial Convention, Committee of Safety and Council of Safety of the State of New York* (Albany: Thurlow Weed, 1842), 2 vols., 1:491, hereafter cited as *JPC*; Arrest Warrant from a Secret Committee of the New York Provincial Congress. New York, June 21st, 1776. *PGW*; *JPC*, 1:497, 500; Arrest Warrant from a Secret Committee of the New York Provincial Congress. New York, June 21st, 1776. *PGW*; Force, *American Archives*, 4th ser., 6:1163–65 and Arrest Warrant from a Secret Committee of the New York Provincial Congress. New York, June 21st, 1776. *PGW* n.1; Matthews was confined in the common jail of Hartford where he was required "to bear the Expence [*sic*] of his own Support." Jonathan Trumbull to Ezekiel Williams. August 1st, 1776. Lebanon, CT. Parsons, ed., *Letters and Documents of Ezekiel Williams*, 45. Hickey was almost certainly guilty of counterfeiting continental currency, but it was unlikely that he was involved in any "treach'rous [*sic*] correspondence with the enemy." General Orders. New York. June 27th, 1776. *PGW*. For discussion of this conspiracy see Brian F. Carso, *"Whom Can We Trust Now?": The Meaning of Treason in the United States from the Revolution through the Civil War* (Oxford, UK: Lexington Books, 2006), 57-59 and Bradley Chapin, *The American Law of Treason: Revolutionary and Early National Origins* (Seattle, WA: University of Washington Press, 1964), 35-8.

Independence, each state did enact its own version of a treason law and began to prosecute the offenders. By 1778, every state had established "tests" to determine the loyalties of its inhabitants.⁴⁶

Because of its proximity to the British army in New York, Connecticut was among the first to try loyalists for treason. Loyalists in the colony had long suffered the malicious caprice of mob violence, but with a congressional resolution in hand, Connecticut authorities began rounding up suspected persons in earnest. Josepha Hait of Fairfield reported that he was "taken by a mob and Cruelly used and closely confined in Fairfield Goal" for thirteen months before he managed to effect his escape. Similarly, Joel Stone suffered, "every Rigor that Rebel Malice could suggest, in close Confinement" at Fairfield. Hartford's jail was equally crowded with accused traitors in the summer of 1776.⁴⁷

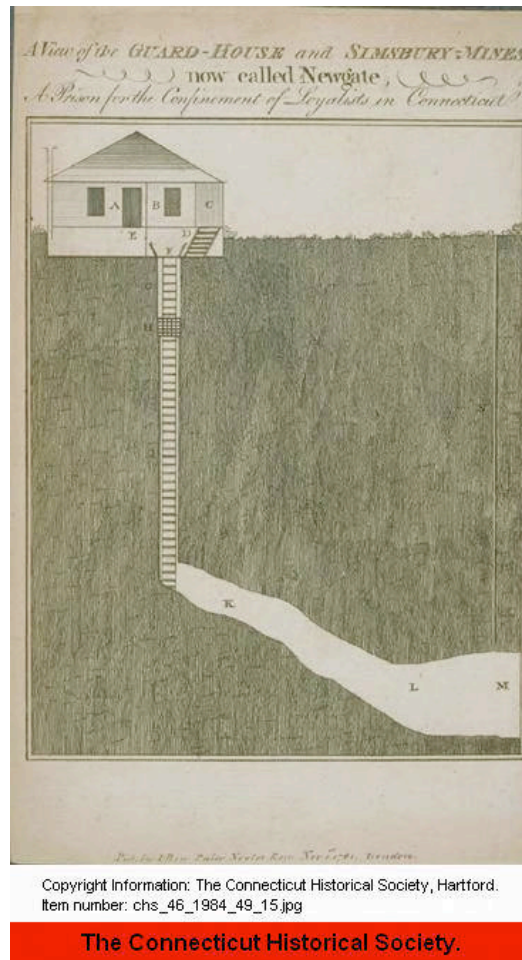
Though they did not realize it, men like Hait and Stone were fortunate. On July 7th, Major Christopher French, still a prisoner in Hartford, received word that Mr. M.cNeal[,] Mr. Seaman & Mr. Fairchild were committed to Simsbury Mines for two years...having been found guilty of being Friends to Government—and good order." These men were sent to an abandoned copper mine in Simsbury known as Newgate,

⁴⁶ JCC, 5:475; Joseph Hawley to Elbridge Gerry. July 17th, 1775, in James T. Austin, *The Life of Elbridge Gerry, With Contemporary Letters* (Boston, 1828-9), 2 vols., 1:206-8. See also Carso, "Whom Can We Trust Now," 60; Higginbotham, *The War of American Independence*, 270-2. For examples of individual state treason laws see James Tyndale Mitchell, ed., *The Statues at Large of Pennsylvania from 1682 to 1801* (Philadelphia: Wm. Stanley Ray, 1903), 18 vols., 9:18-19, 45-47; *Acts of the Council and General Assembly of the State of New Jersey*, comp. Peter Wilson (Trenton, 1784), 4-5; Alexander Contee Hanson, ed., *Laws of Maryland: made since M,DCC,LXIII, [1763]* (Annapolis: Frederick Green, 1787), chapter 20, 171-5; Charles J. Hoadly, ed., *The Public Records of the State of Connecticut* (Hartford: Case, Lockwood & Brainard, 1894), 19 vols., 1:4; JPC, 1:527; James Iredell, ed., *Laws of the State of North Carolina* (Edenton, 1799), 284-86.

⁴⁷ James Shepard, "The Tories of Connecticut," *The Connecticut Quarterly*, Vol.1, No.2, (Spring, 1895); AO13/21/200-301. Treasury Office. National Archives of the United Kingdom. Class I, Volume 634, folio 193. Isaiah Smith and his brother were captured on their way to the British fleet at New York and confined all summer in Hartford. AO13/22/268-270.

which had been converted into a subterranean prison. The prisoners were kept in makeshift cells nearly 70 feet below ground. Connecticut loyalist, Rev. Samuel Peters, described the prisoners' ordeal: they were "let down on a windlass into this dismal cavern, through a hole which answers the triple purpose of conveying them food, air and—I was going to say light, but that scarcely reaches them." Often crowded with over a hundred prisoners, the prison's sanitary conditions deteriorated precipitously. Peters claimed that "in a few months the prisoners are released by death and the colony rejoices in her great humanity and the mildness of her laws." Although Peters was certainly inclined to think the worst of Connecticut's revolutionary leadership, his depiction is corroborated by a contemporaneous etching of the cavernous prison (Fig. 2) and an early nineteenth-century account of the trial and confinement of Edward Huntington. At his trial, Huntington claimed to be "a British subject" and "prisoner of war" who deserved "such treatment as the laws of civilized warfare dictate." His protestations were ignored. Bowing to pressure from members of the crowd who cried, "Away with the traitor—to the mines with the tory," the court found him guilty of high treason and condemned him to "perpetual imprisonment in the Mines." Confined in the "dark abyss" where "at noon only a gloomy twilight" illuminated "the squalid forms of the miserable wretches here incarcerated," Huntington languished "in the midst of sorrow." Months before the British ever housed an American soldier on board a prison ship, the revolutionary government of Connecticut banished men beneath the earth for defending what had been their lawful government just the previous year.⁴⁸

⁴⁸ Cohen, *The Connecticut Captivity of Christopher French*, 150; Richard Harvey Phelps, *Newgate of Connecticut: Its Origins and Early History* (Hartford, CT: American Publishing Company, 1876), 34; Samuel Jarvis McCormick, ed., *The Rev. Samuel Peters' LL.D. General History of Connecticut* (New York: D. Appleton and Co, 1877), 143; *New-York Journal*, January 25th, 1776; *New-York Mirror*,



(Fig. 2)

All of the states agreed that the overt act of "leveling war" against the United States constituted treason, but there was much variance about less overt acts of treason. Radical revolutionaries in Pennsylvania pushed for a catholic definition of treason: loyalty to the king was disloyalty to the United States. The state's new convention charged with creating a constitution did not go so far however. In September, the convention passed an ordinance defining treason as armed opposition and anything less

March 13th, 1824. For examples of loyalists who suffered and survived confinement at Newgate see, Elisha Beckwith, AO13/26/37-38, Thomas Gilbert, AO13/24/198-300, and Justus Sherwood, AO13/15/360-61. See also the account of the confinement at Newgate of Ebenezer Hathaway and Thomas Smith, loyalists who escaped Newgate in 1781. *Royal Gazette*, June 9th, 1781. For another contemporaneous description of the prison see Roger Newberry to Governor Trumbull. October 25th, 1781. Simsbury Mines, CT. *PCC*, Item 149, Vol. 1, pgs., 327-8.

as "misprision of treason." Both crimes carried sentences of imprisonment "not exceeding the duration of the present war," but only convicted traitors suffered forfeiture of all of their lands and property. In December 1776, Joseph Stansbury, a merchant from Philadelphia, was "made prisoner in [his] dwelling house, by some armed men." He was accused of having "sung God save the King, or joined in the chorus." After a brief examination, he was thrown in the city's new jail "without the least shadow of Reason whatever." In a petition to the Council of Safety, Stansbury appealed to the English Bill of Rights and demanded to know why he was "wantonly deprived of his Liberty." Congress's July 24th resolution had nullified English law, and as a suspected loyalist, Stansbury had no claim for redress. He remained in prison until the British occupied the city in 1777 and was not cleared of the charge until June 1779.⁴⁹

New Yorkers were not so lenient. With the British fleet anchored off Staten Island, the New York Convention resolved unanimously to declare any "adherent to the King" within their borders guilty of treason and punishable by the "*pains and penalties of DEATH!*" The proclamation was ordered to be read aloud throughout the city so that no one might claim ignorance. To add teeth to their resolution, the Convention established a committee for "detecting and defeating the designs of the internal enemies of this State." The Convention members feared that with British support, the loyalists would launch an armed "insurrection" against the revolutionary government in the state. To combat the

⁴⁹ *The Statues at Large of Pennsylvania from 1682 to 1801* (Philadelphia: Wm. Stanley Ray, 1903), 18 vols., 9:18. Those guilty of misprision of treason were to forfeit one third of their property. *The Statues at Large of Pennsylvania*, 9:19; Joseph Stansbury to the Council of Safety. December 10th, 1776. New Jail, Philadelphia. Reel 36. Number 167. Pennsylvania State Government Papers. DLAR. Stansbury was certainly a tory. He was later involved in carrying messages between Benedict Arnold and Sir Henry Clinton. Stansbury was re-arrested in 1780, but discharged. "List of Persons Against Whom Proclamations Were Issued by the Supreme Executive Council & Who Surrendered Themselves to be Tried for High Treason," *Pennsylvania Archives*, series 6, 13:477; *Dictionary of American Biography* (New York: Charles Scribner's Sons, 1928-1936), 20 vols., 17:516-7.

perceived threat, they authorized the formation of a company of 220 officers and men for the expressed purpose of policing the loyalists and crushing any insurrection.

Washington even dispatched elements of his own army to Staten Island to arrest all "Such persons as from their Conduct had shewn themselves inimical" or "gave just Cause of Suspicion." He confided to General William Livingston, "I would suggest to you that my Tenderness has been often abused & I have had Reason to repent the Indulgences shewn them [the loyalists]." The time had come for severity.⁵⁰

For New York loyalists, the moment for patient endurance in the face of insult and injury was equally at an end. With British troops securely ensconced by October 1776, Manhattan had become a haven for the king's friends who flocked to the island: some for relief, others for revenge. Aware that the loyalists were facing increased persecution, both legal and extralegal, New York's royal governor William Tryon was confident that "a great number would join the King's troops as soon as they saw them land." He was not to be disappointed. Loyal subjects of the king from across the social, religious, ethnic, and racial spectrum volunteered to suppress the rebellion in droves. In early September, Howe authorized Oliver De Lancey, the New York grandee and veteran of the Seven Years' War, "to raise a Brigade of Provincials...to reestablish Order, and Government...[and] to Apprehend or drive all Concealed Rebels from among his Majesties well Affected Subjects." In short order De Lancey succeeded in fielding three battalions of loyalist infantry, uniformed and equipped by the crown. His counterpart in

⁵⁰ *JPC*, 1:527, 638. Fearing that the Staten Island loyalists would take advantage of the army's strict commitment to the protocol of civilized warfare, Washington exclaimed "Matters are now too far advanced to sacrifice any Thing to Punctilio." Washington to Livingston. New York. July 6th, 1776. *PGW*; For the best study of the loyalism on Staten Island, and the revolutionary American efforts to suppress it, see Phillip Papas, *That Ever Loyal Island: Staten Island and the American Revolution* (New York: NYU Press, 2007).

New Jersey, Cortland Skinner, was even more successful. In early winter 1776, the New Jersey Volunteers boasted six battalions numbering over 2,500 men in arms. Despite their impressive turnout, British officers scoffed at the raw American recruits and relegated the loyalists to foraging, guarding, and policing. In this capacity, the loyalist troops soon earned a reputation for rampage and rapine. Operating "between the lines of the two armies," loyalist troops committed "every kind of crime—robbery, house burning, murder &c" according to one Connecticut officer.⁵¹

Keen to exploit any chink in the crown's armor, American newspapers circulated exaggerated accounts of loyalist conspiracies and crimes that compounded stories of Hessian atrocities and British malevolence—fueling animosity and eliciting demands for retaliation. American troops were hardly innocent of plunder and worse, but the loyalist press had yet to organize an effective counteroffensive. To the American reading public, the British army, aided by "the internal enemies of America," was engaged in "indiscriminately murdering, plundering, and ravishing" without concern for "humanity and the practices of civilized nations." Someone had to pay.⁵²

⁵¹ For recent studies of loyalism in New York see Chopra, *Unnatural Rebellion* and Van Buskirk, *Generous Enemies*; Intelligence to William Tryon from New York. April 17, 1776. Vol. 15. Clinton Papers. The Clements Library; Oliver De Lancey to Col. Edmund Fanning. Oliver De Lancey Papers, Mss #6059. New York State Library. Transcription courtesy Todd W. Braisted. <http://www.royalprovincial.com/military/rhist/delancey/dellet2.htm>; Calhoun, *The Loyalist Perception*, 151. Captain Richards reported that these crimes began as soon as the British had gained possession of Manhattan. *Diary of Samuel Richards*, 77. For the best study of conflicts that occurred "between the lines" around New York see Ward, *Between the Lines*, chapter 2.

⁵² Take for instance the highly exaggerated "extract of a letter from an officer at Harlem." "The enemy have [*sic*] practiced some inhuman cruelties on the unfortunate wretches they have in their power... They have hanged numbers by the feet, and then cut their throats!—The Hessians are continually plundering, and are countenanced by their General." *New-England Chronicle*, October 3rd, 1776. In May of 1776, the *Connecticut Courant* raged against the loyalists for their supposed conspiracies to liberate British prisoners of war: "By these miscreants our prisoners are assisted to escape. If these internal enemies are suffered to proceed in their hellish schemes, our ruin is certain, but if they are destroyed, the power of Hell and Britain will never prevail against us." *Connecticut Courant*, May 20th, 1776; *Connecticut Gazette*, March 14th, 1777.

Enraged Americans began to vent their frustrations on the closest surrogates: British prisoners of war. Captured British officers confined in Pennsylvania claimed to have suffered "cruel treatment" at the hands of troops on the way to the front in August. As they informed the Committee of Inspection and Observation of Cumberland County: "We have been insulted in the most gross terms, pelted with stones, hatchets have been brandish'd over our heads, fire Arms presented at us, nay fir'd and more than one plan concerted for way-laying and murdering us." Despite the best efforts of the local revolutionary leadership to exert "themselves to the utmost to provide for our Safety," the officers received "a treatment we had no reason to expect in a civiliz'd Country." Hardly the "brotherly Affection" to which they had become accustomed, the prisoners attributed the alteration in their treatment to the "defamatory papers spread about the town to render us odious to the people." Major Christopher French feared that the townspeople of Hartford would take matters into their own hands. After the battle of Brooklyn, he was informed by a local that "the people would put us all to Death" before the British army could liberate the men. Happily for French, the committee had already decided to confine him behind bars, beyond the reach of vigilantes.⁵³

The loyalists had no intention of going down without a fight. Sensing the weakness of the revolutionary movement after the defeats in the battles around New York, loyalists throughout the continent began to organize to oppose their oppressors. In the opinion of a Connecticut committee, word of "the late successes of the british [*sic*] arms...elated the prisoners & Tories: & some of them in consequence thereof are grown saucy & troublesome." Lacking the "power to command any civil or military assistance"

⁵³ British Prisoners of War at Carlisle to the Committee of Inspection and Observation of Cumberland County. August 1st, 1776. Boudinot Papers. LOC; Cohen, *The Connecticut Captivity of Christopher French*, 159.

the committee could not "punish their insolence" which served to "dishearten our own people." Seeing confessed loyalists at large was bad for morale. In Westchester county New York, Thaddeus Crane found "the present situation of our enemy has so spirited up our Tories," that only the immediate arrest and banishment of "those insulting villains" would save the revolutionary movement from ruin. The situation was even more extreme in northern New Jersey where Hessian plundering had induced local revolutionaries to retaliate on their loyalist neighbors. Eager for revenge, loyalists took to arms to overthrow their tormentors. Only days after the fall of Fort Washington, the "danger of an Insurrection of Tories in the County of Monmouth" forced Washington to dispatch a regiment of continentals "to apprehend all such persons...concerned in any plot or design against the liberty or safety of the United States."⁵⁴

In the opinion of many revolutionaries, those Americans who denied Congress's right to declare independence were no longer misguided malcontents or rowdy reactionaries; they were rebels against their country. Evincing absolutely no sense of irony, the revolutionaries began to envision any homegrown opposition as rebellion. For an infant nation like the United States, rebellion could not be tolerated. Tasked with putting down the loyalist insurrection in New Jersey by force, General George Clinton boasted to William Heath in early January 1777, "Had I only a couple of field pieces, I flatter myself I shou'd be able to drive the Rebels out of this Quarter of the Country."

⁵⁴ For the best history of the insurrection in New Jersey see David J. Fowler, "Loyalty is Now Bleeding in New Jersey: Motivations and Mentalities of the Disaffected," in Joseph S. Tiedemann, Eugene R. Fingerhut, and Robert W. Venables, eds., *The Other Loyalists: Ordinary People, Royalism, and the Revolution in the Middle Colonies, 1763-1787* (Albany: State University of New York Press, 2009), 51-55. For loyalist uprisings in Delaware and Maryland see, Wayne Bodle, "'The Ghost of Clow': Loyalist Insurgency in the Delmarva Peninsula," in *ibid.*; Hartford Committee to Gov. Trumbull. October 27th, 1776. Vol. 5. Part Two. Number 210a. Trumbull Papers. CSL; Thaddeus Crane to Joseph Benedict. Salem, NY. September 17th, 1776. Force, *American Archives*, 5th series, 2:373; Washington to David Forman. New York, November 24th, 1776. *PGW*.

Some artillery was all that prevented Clinton from attacking "those Parricides with Success." The New York Committee of Safety had burdened Clinton with the responsibility of "Overawing and Curbing the disaffected or Revolted Subjects of that State" in December, and the general had every intention of living up to his responsibility. Rebellion would be crushed. The President Pro Tempore of New York, Leonard Gansevoort, pithily summarized the shift in American opinion: "The Disaffected or rather the Rebels throughout America have hitherto been treated with a Degree of Indulgence which neither the Regard due to the Country or their merits can justify—without Vigour, firmness and Decision few Revolutions succeed."⁵⁵

Firmness and vigor was precisely how numerous communities confronted the loyalists in the spring and summer of 1777. New Jersey Quaker, Margaret Morris, described what she termed "the rage of tory-hunting" that gripped her community. "Parties of armed men rudely entered the town, and diligent search was made for tories." Sympathetic to the loyalist plight, Morris successfully concealed a loyalist "refugee" from the "tory hunters," but many were not so fortunate. Archibald Kennedy, a retired Royal navy officer living in New Jersey, was "dragged out of his Bed in the Night & carried a Prisoner to Morris Town" where he endured a three-year confinement. Every state abounds with similar accounts of suspected loyalists who were plucked from their beds at night and banished to an indefinite imprisonment. In New England, the jails rapidly became overcrowded and unsanitary. The jail keeper in Fairfield complained of

⁵⁵ George Clinton to William Heath. January 1st, 1777. Ramapough, NJ. Wm Heath Papers. Peter Force Collection. Series 7E. 19, 061. Reel 14. Item 57. LOC; *Public Papers of George Clinton*, 1:456; Leonard Gansevoort to Jonathan Trumbull. Kingston, NY. April 11th, 1777. *PCC*, item 67, vol. 2, p. 54. In June 1777, John Bayly of Lancaster County, Pennsylvania informed Thomas Wharton that "the Dutch, at Lenth [*sic*] hath Broken out into open Rebellion." The German inhabitants of Lancaster refused to serve in the revolutionary militia. Pennsylvania soldiers responded to the "rebellion" by "fir[ing] on the rebels, and Shot three of the ringleaders." John Bayly to President Wharton. Donnegall, Lancaster County. Coll. # 352. Lancaster County Manuscripts. HSP.

having "17 prisoners in close confinement," most for being "inimical to the states." With no prospect of release, the prisoners soon became "very unwell" in the "cold weather." The condition of Pennsylvania's jails was no better. Richard Stockton, an officer in the First Battalion of the New Jersey Volunteers, was confined in the jail at Carlisle, "which really surpasses every thing that was ever heard of in a Christian Land, we are mixt with ruffians and criminals who are thrown into goal, sick and well all together." Sarah O'Bryan, "a languishing Prisoner in the New-Goal" for "many Months past" was "in a most distressed way having the Flux" in March 1777. Notwithstanding her "helpless Infant suffering for want of her Mother," the Pennsylvania Council of Safety did nothing to alleviate her plight. Arrested in August 1776, James White was confined in the Lancaster jail for "about 14 months [a] great part of which time was in the Dungeon with heavy irons on his leggs [*sic*] and without any sustenance save bread and Water." Despite numerous petitions, "he could never obtain any tryal." These were the lucky ones.⁵⁶

Those loyalists who received a court hearing often wished they had not. By criminalizing loyalty to the king, the revolutionaries removed any claim on the part of the defendants to the protections of prisoner-of-war status. Conceived of as "rebels" and

⁵⁶ Diary of Margaret Morris, December 13th, 1776 to January 12th, 1777. Transcribed in George Morgan Hills, *History of the Church in Burlington, New Jersey* (Trenton, NJ: William S. Sharp, 1876), 321; Memorial of Archibald Kennedy. Clinton Papers. Vol. 228, Fol. 45. The Clements Library; Thaddeus Burr to Jonathan Trumbull. Fairfield, CT. December 18th, 1776. Vol. 5, Part II, No. 286a. Trumbull Papers. CSL; Richard W. Stockton to Thomas Peters. Carlisle, PA. Ca. 1777. MSS L1998E444. LSC; Petition of John O'Bryan on behalf of his wife Sarah to the Supreme Executive Council for the Commonwealth of Pennsylvania. New jail, Philadelphia. March 10th, 1777 and April 10th, 1777. Reel 36. No. 828. Pennsylvania State Government Papers. DLAR. There is no reference to Sarah O'Bryan in the official minutes of the Supreme Executive Council transcribed in *Pennsylvania Archives*, Colonial Records, Volume 9; James White to the Supreme Executive Council for the Commonwealth of Pennsylvania. Lancaster jail. October 16th, 1777. Reel 36. No. 419. Pennsylvania State Government Papers. DLAR. Loyalists were very often confined without trial. Frederick Philipse wrote his wife that "Nothing Affects more than to be taken up in such an hostile manner without any Crime for it to my Charge and without a hearing." Philipse to Elizabeth Philipse. New Haven, CT. August 22nd, 1776. Catherine S. Crary, *The Price of Loyalty: Tory Writings From the Revolutionary Era* (New York: McGraw-Hill, 1973), 144.

"traitors," loyalist prisoners throughout the continent were put on trial for their lives. Men and women, soldiers and civilians, were all subject to revolutionary tribunals. Mary Quin and Elisabeth Brewer were tried by a Continental army "Court of inquiry" for "suspicion of being an Enemy to their country." Quin was released on the grounds of insufficient evidence, but Brewer did not get off so easy. She was sentenced "to be confined during the war." Because Congress did not provide for any continental detention facilities, the burden of confining prisoners like Elisabeth Brewer fell to the states.⁵⁷

Overwhelmed with convicted "traitors," officials in New York were reduced to the necessity of fitting-out three prison ships in the Hudson River in early May 1777. Anchored off Kingston, the state's new capital, these floating prisons, known collectively as the Fleet prison, were fetid cesspits of disease, suffering, and privation. Within days of their establishment, there were already 175 loyalists confined on the ships, with more pouring in all summer. Unlike the Americans aboard the prison ships in New York harbor, who were at least nominally provided with two-thirds rations, the loyalists in Kingston were required to pay for their own provisions. As if to add insult to injury, the Council of Safety soon decided that the provisions being sold to the prisoners were "too great," and they ordered their daily intake reduced to "one quarter of a pound of beef, pork or mutton...and one pound and a half of flour" per day, a ration considerably less than that American prisoners in New York were entitled to receive. In the opinion of contemporary loyalist historian Thomas Jones, the prisoners' treatment was "an instance of that rebel humanity of which they made such a boast during the war, while they were

⁵⁷ Kirkwood Orderly Book. May 29th, 1777 and June 11th, 1777. Peter Force Collection. Series 7E. Shelf No. 19, 061. Reel 16. Item 67. LOC.

perpetually taxing the British with carrying it on with a barbarity peculiar to savages only." From a position below decks at the Fleet prison, American "humanity" must have looked more like American hypocrisy.⁵⁸

For many convicted loyalists, confinement aboard a prison ship would have been an attractive option; the alternative was the hangman's noose. In April 1777, New York tried nine men by court martial for either "being Enlisted as Soldiers in the Service of the King of Great Britain" or simply "adhering to the King of Great Britain." Even those who had enlisted in the British army were denied prisoner-of-war status; their British uniforms could not hide their American birth. Condemned, the men went to their death in early May. Though officially a state matter, the responsibility for executing convicted traitors occasionally fell on the Continental army; much to the chagrin of officers who imagined themselves as gentlemen and men of sensibility. Captain Samuel Richards was given the "unpleasant and mournfull" order to execute Robert Thomson of Newtown, Connecticut, a man convicted of having encouraged others to join the British army. Although repulsed by the role of hangman, Richards knew that "the orders being positive

⁵⁸ According to prisoners confined in the Kingston jail, the conditions of the prison were "Both fulsome & Nauseous [*sic*]." *Public Papers of George Clinton*, 2:339. The crowded and unhealthful condition of the city's jail induced the New York Convention to establish the prison ships on May 2nd, 1777. The Convention members feared that the "very nauseous [*sic*] and disagreeable effluvia" in the jail "may endanger the health of the members of the Convention." *JPC*, 1:908; *JPC*, 1:937; *JPC*, 1:1050. The prisoners remained confined in these putrid hulks until a British force advanced on Kingston in the fall of 1777. The prisoners were officially supposed to be sent to Connecticut for confinement, but according to Thomas Jones, 150 loyalists were still aboard the ships "confined below decks in irons" when the ships were set afire. Though otherwise uncorroborated, he claimed that "the rebel crews got on shore, but they never released the poor prisoners." Jones, *History of New York*, 1:220, 710. Numerous Quakers who refused to take oaths of allegiance to the state of New York were also confined at the Fleet Prison. See A. Day Bradley, "Friends in the Fleet Prison at Esopus," *Quaker History*, vol. 55, no. 2, (Autumn, 1966), 114-117. See also Burrows, *Forgotten Patriots*, 190.

I could do no other than to execute it." Thompson's body was left hanging for an hour in front of a large crowd, "among which were his own family."⁵⁹

Although the trial and execution of loyalists was often haphazard, in states threatened with British invasion, the persecution of loyalists became routine. Gripped by fear of British and Hessian incursions in the fall of 1777, revolutionaries in New Jersey launched a campaign to terrorize local insurgents. State forces conducted wide-ranging patrols to root out loyalist supporters in areas that even staunch loyalists admitted were "Ripe for Insurrection & Revolt." On one such expedition, New Jersey militia engaged a recruiting party of the British provincial regiment, the New Jersey Volunteers. James Iliff, a commissioned lieutenant, along with numerous recruits, was captured in the fight. All were put on trial for their lives and convicted of treason against the state of New Jersey. While the enlisted men were pardoned, "on the Express Condition of their Inlisting [*sic*] in the Continental Army," their officer was sentenced to death. According to Peter Dubois, who witnessed the execution, Iliff "behaved with Great Calmness and fortitude, Declaring that He had Acted from a principle of Duty to His King." He and John Mee, a former British soldier who had taken an oath of allegiance to the state to avoid imprisonment only to be captured with Iliff's loyalist volunteers, were executed on December 2nd, 1777. Dubois informed British General Sir Henry Clinton that "the Corps[es] of ILIFF & MEE were drawn on a Sled from under the Gallows & thrown Into the Room in which [other loyalists] are confined in Irons. And the Gallows was placed

⁵⁹ *Public Papers of George Clinton*, 1:749, 761, 762. The men were William McGinnis, John Van Vliet, Cornelius Furler, Coenradt Mysener, Andries Keyser, John Rapalje, Silvester Vandermark, Jacob Middagh, and Jacob Longyore. They were sentenced to suffer "the Pains and Penalties of Death by being hanged by the neck until they are dead."; *Diary of Samuel Richards*, 46.

before their prison window." The revolutionaries hoped to make an example of Iliff: treason would not be tolerated.⁶⁰

Moses Dunbar of Connecticut suffered a similar fate. Captured while attempting to enlist men for his regiment in January 1777, Dunbar was put on trial for holding a captain's commission from General Howe. As an officer of the British army, Dunbar should have been paroled to await exchange. Instead, the superior court of Connecticut sentenced him "to suffer death" for holding a commission that in a European context would have guaranteed his safety and benign treatment while in captivity. Connecticut revolutionaries were so blinded by the dual threat of external invasion and internal rebellion that the very document intended to invest his conduct with cultural legitimacy and legality had become evidence of the unpardonable crime of treason. With no legal recourse, Dunbar took solace that he would "soon be delivered from all the pains and troubles of this wicked mortal state." He did not have long to wait. Captain Moses Dunbar of Colonel Fanning's Regiment was hanged at Hartford in front of "a prodigious concourse of people" on March 19th, 1777.⁶¹

Because the loyalists were "rebels" against their country, the revolutionaries increasingly came to imagine them as beyond the jurisdiction of civil law. Death rather

⁶⁰ Robert Morris to William Livingston. Morristown, NJ. November 12th, 1777. *The Papers of William Livingston* (Trenton, NJ: New Jersey Historical Commission, 1979), Carl E. Prince, Dennis P. Ryan, Pamela B. Schafler, and Donald W. White, eds., 5 vols., 2:112; Memorial of the Inhabitants of West Jersey to Sir William Howe. January, 1778. A.O. 13, Vol. 109, folio 109. National Archives of the United Kingdom. Speaking about the loyalist prisoners, Dubois told Clinton, "I cannot for want of time by this Oppty. tell you how much All these poor people have Suffered nor how their Sufferings have been aggravated by Every Species of Insult." Peter Dubois to Sir Henry Clinton. Morris Town, NJ. December 3rd, 1777. Clinton Papers. Volume 27, Item 52. Clements Library. See also, *Documents Relating to the Revolutionary History of the State of New Jersey* (Trenton, NJ: John L. Murphy Publishing, 1901-1917) Second Series. 5 vols., 2:7-8. 12-13.

⁶¹ *Norwich Packet*, February 3rd, 1777; Autobiography of Moses Dunbar in Epaphroditus Peck, "Loyal to the Crown: Discussion of Alleged Inhuman Treatment of Moses Dunbar, Tory, by the Civil Authorities," *The Connecticut Magazine*, vol. 7, no. 2, 297-300, 299; *Connecticut Journal*, March 26th, 1777.

than capture was the likely fate for armed loyalists in areas threatened by British forces. Without even the pretence of legal due process, the New York Convention instructed the state's militia in May, 1777 to uncover all "Emissaries of the Enemy" and "immediately execute them in Terrorem." In an effort to "prevent [,] suppress & quell all Insurrections Revolts & Disaffection within their respective Counties," all who opposed the militia were to be "destroyed." Apparently the New York militia was successful. An officer with the Continental army at Morristown reported in May 1777 that "a number of Tory traitors have been hanged in these States southward of New England." Expressing the opinion of many, he hoped such tactics would "clear the land of such pests to human society."⁶²

Similar terror campaigns occurred wherever rumors of an impending British attack circulated. When a British fleet threatened the Chesapeake in winter 1777, the Maryland General Assembly ordered James Campbell to apprehend loyalists and "all other suspected persons." He warned Maryland loyalists that he would "imideatly [*sic*] hang up every person that I Catch holding any Correspondence with or giving succor to the enemy." The loyalists' plight was no better in Pennsylvania, which would soon be the target of British designs. In April 1777, Sarah Shepherd notified her husband, who had fled the state because of his loyalists beliefs, that an acquaintance of theirs was "no more [,] he was hanged on the Commons last Monday." She feared that she might be next. Revolutionary forces had ransacked her house in a futile attempt to locate her husband. In a furtive letter to him, Shepherd confessed, "I never met with so hard [a] Tryal as this Unhappy Affair has been...God knows what I have suffer'd." Like countless other loyalists, the revolution had turned the Shepherds's life upside down for the sole crime of

⁶² Resolution of the Convention of New York. Kingston, NY. May 11th, 1777. *PCC*, Item 67, Vol. 2, p. 55; Resolution of the Convention of New York. Kingston, NY. May 5th, 1777. *PCC*, Item 67, Vol 2, p. 57; *Freeman's Journal*, May 31st, 1777.

following the laws under which they were born. Speaking for all loyalists who suffered under the heavy hand of revolutionary justice, the *New-York Gazette* enunciated the prevailing loyalist reaction to their treatment: "Instead of Humanity, which the Newspapers are filled with...[the prisoners] have barely enough to keep Life and Soul together in Goals, and many left to shift for themselves or starve. Men, Women, and Children, suffer the same Fate...what Services they do are at the Risque of their Lives and Fortunes." For many, loyalty came at far too heavy a cost.⁶³

By the autumn of 1777, American civil and military forces were embattled in a sanguinary and vicious internecine conflict that bore little resemblance to their pre-war vision of "civilized warfare." That violence was most widespread in areas where the British army was in close enough proximity to support, or at least threaten, a loyalist insurrection. Bands of armed loyalists, some wearing the uniform of the king and others not, committed outrages and murders on a scale roughly equal to that of their revolutionary counterparts; but unlike the revolutionaries, who often relied on the preexisting legal mechanism of the court system to persecute loyalists, the "king's friends" acted without official sanction. With the stability and future of their infant state on the line, few revolutionaries had any scruples about using every means at their disposal to suppress loyalist insurgencies.

Some Americans did maintain, however, that the violence of the conflict could be restrained and the revolutionary cause preserved unsullied. In their opinion, Americans did not have to stoop to their enemy's level. When Maryland continental

⁶³ James Campbell to William Smallwood. February 28th, 1777. Enterprize ship of war. Hooper's heights. William Smallwood Papers. MSS L1999LA3 (No. 1-46) M. Letter No. 9. LSC; Sarah Shepherd to William Shepherd. April 12th, 1777. Philadelphia. No. 383. Reel 36. Pennsylvania State Government Papers. DLAR; *New-York Gazette*, November 18th, 1776.

troops captured, tried, and executed a loyalist "by Hanging the Poor fellow from a Limb of a Sycamore Bush," Washington was disheartened. This was not how professional soldiers were supposed to conduct war between "civilized" peoples. Though he admitted that the man's treason "was heinous enough to deserve the fate he met with," Washington lectured the offending officer that "the whole proceeding was irregular and illegal, and will have a tendency to excite discontent, jealousy and murmurs among the people." The Maryland troops had only emulated the practices of countless state militias, but Washington insisted that the Marylanders, as continentals, represented the Continental Congress and were subject to "our articles of war," which did not "justify your inflicting a *capital* punishment, even on a soldier much less on a citizen." Revealing his belief that America's legitimacy as a sovereign nation rested on her national army's scrupulous attention to the customs of war among "civilized nations," and his hope that Americans would rise above British barbarism, Washington concluded, "The temper of the Americans and the principles on which the present contest turns will not countenance proceedings of this nature."⁶⁴

Washington overestimated the American peoples' patience for treason. The imprisonment and execution of loyalists continued throughout the war, notwithstanding the grim irony that the British never tried a single American for treason, sedition, or rebellion. Taking up arms for their king had transformed the loyalists into rebels in the eyes of their neighbors; and as General Gage had warned Washington in 1775, rebels were "destined to the cord." While the revolutionary American persecution of the loyalists never approached that committed by the French revolutionaries during the

⁶⁴ "Journal of Capt. William Beatty, 1776-1781," *Maryland Historical Magazine* (June, 1908), vol. 3, no. 2, 104-119, 108; Washington to Preudhomme de Borre. Philadelphia. August 3rd, 1777. *PGW*.

Terror, the feelings of fear and insecurity that ignited the violence of the latter were present in the former. By arming the loyalists, the British had unwittingly opened the door to civil war, escalating the violence of the conflict precipitously. Only total victory or utter defeat would close it again.⁶⁵

"This most auspicious event": The Battle of Trenton and the Failure of the Cartel of 1777

In December 1776, while state forces throughout the former colonies were mired in increasingly violent and chaotic internal conflicts, Washington and the remnants of his army faced a British force entrenched in New York and poised to occupy all of New

⁶⁵ Regrettably, there has been very little work done on the American suppression of loyalism, and we still lack a synthetic study. Without a state by state analysis of court records, committee of safety minutes and correspondence, and militia records, we cannot even begin to approximate the number of loyalists who were tried, jailed, or executed during the war. Because they were not treated as prisoners of war, the Commissary General of Prisoners' office did not maintain lists of arrested loyalists. Although we cannot provide any estimates of the number of trials, conventions, and executions, the impression one gets from browsing the Loyalist Claims in the Audit Office records at the National Archives of the United Kingdom is that the number was considerable. Most loyalists who claimed compensation from the British government reported having been confined by the revolutionaries at some point during the war. The Loyalist Claims are obviously an insufficient source for ascertaining the number of loyalists who were executed by the revolutionaries. From examining committee of safety records for several states, however, it appears that the wave of official executions of loyalists for treason waned after 1777. The more secure the revolutionaries were in their military and political position, the less likely they were to punish loyalists capitally. Nonetheless, both formal and informal trials of loyalists persisted, and loyalists continued to face execution at the hands of the revolutionaries throughout the war. According to the *Pennsylvania Packet*, two loyalist recruiting officers were executed by the Continental army in July 1777 in New York. *Pennsylvania Packet*, August 5th, 1777. *Connecticut Courant* reported that "seven tory criminals, condemned at the last Court, were all hanged together at Albany" in June 1778. *Connecticut Courant*, June 23rd, 1778. In July 1778, Dr. Samuel Adams visited Englishtown, New Jersey, to see the execution of two tories at Monmouth Court House. He was disappointed because "they were turned off [hanged] a few minutes before I arrived." Dr. Samuel Adams to Sally Preston Adams. Englishtown, NJ. July 20th, 1778. No. 28. The Sol Feinstone Collection. DLAR. As the war progressed, revolutionary Americans continually relied on the pretext that loyalists were "spies" in order to speed their conviction through the legal process. In August of 1777, John Adam, an American assistant commissary of prisoners, reported to his superior Elias Boudinot that the "noted Enemy [*sic*] of his Country Edmund Palmer was Executed Friday last." Despite British attempts to have Palmer exchanged, "Genl. Putnam gave them for answer, he was taken as a Spy [*sic*], tried as a Spy, condemned for a spy, and should be Hang'd for a spy." John Adam to Elias Boudinot. Peekskill, NY. August 12th, 1777. (PHi) 68. Boudinot Papers. HSP. In 1781, American forces under the Marquis de Lafayette uncovered a loyalist operation "of furnishing flour to the Enemy." A loyalist named Pigot who was involved in the operation "was hanged at Susquehanna ferry" for "coming within the description of a Spy." One of his accomplices was shot while attempting to escape. Lafayette to Governor Lee of Maryland. April 17th, 1781. *Archives of Maryland*, 47:196; Gage to Washington. August 13th, 1775. Boston. *PGW*.

Jersey. Come spring, Howe would march south, capture Philadelphia, arrest the Congress, and declare the rebellion at an end. The only thing standing in his way was a threadbare contingent of continentals whose enlistments were soon to expire. For those adherents to the revolutionary cause in New Jersey, the situation was dire. British and Hessian forces occupied posts as far south as Trenton and Bordentown on the Delaware—within striking distance of Philadelphia. In what many historians consider to be his greatest, if not his only, strategic coup, Washington surprised Colonel Johann Rall's brigade of Hessian troops at Trenton on the morning of December 26th, 1776. Surrounded and stunned, more than eight hundred Hessians surrendered in defeat, but not before Colonel Rall and twenty-one of his men suffered mortal wounds. James Thatcher, a surgeon with the Continental army, hoped "that this most auspicious event will be productive of the happiest effects, by inspiriting our dejected army, and dispelling that panic of despair into which the people have been plunged." He could not have been more prophetic.⁶⁶

News of the resounding success at Trenton leapfrogged the length of the continent, elating revolutionary sympathizers and demoralizing loyalists. A letter published in the *Independent Chronicle* boasted that "three Regiments of Hessians... were obliged to throw down their Arms, and are now harmless two-legged Animals in the back Counties of Pennsylvania." The once menacing minions of a despotic prince sent to deprive peaceful Americans of their liberties were transformed overnight into objects of derision, mockery, and amusement. Revolutionaries everywhere could hardly contain

⁶⁶ Fischer, *Washington's Crossing*, 155. See, for instance, Higginbotham, *The War of American Independence*, 165-71. Having examined both American returns and British and Hessian accounts, Daniel Krebs has suggested that 848 Hessian enlisted men were captured at Trenton. Krebs, "Approaching the Enemy," 173; Fischer, *Washington's Crossing*, 419; James Thatcher, *Military Journal of the American Revolution* (Hartford, CT: Hurlbut, Williams & Company, 1862), 70.

their jubilation. Imprisoned in Boston, loyalist John Lovell noted that the defeat of the Hessians "electricized [*sic*] the drooping hearts of the whole Continent." Another loyalist who managed to get a copy of a New York paper by way of "Antigua or Grenada," was aghast at how word of the victory induced "some of the violent scoundrels in the City, stilling [*sic*] themselves patriots [to] hold up their Heads." The revolutionary cause, which a month ago had appeared to be at the end of its tether, was rejuvenated. Any success would have been welcomed, but the crowning achievement of Washington's bold stroke was the capture of so many enemy soldiers. Visible evidence of American triumph, the prisoners were more than just spoils of war, they were symbols of revolutionary endurance.⁶⁷

Washington was keen to exploit the men for all their propagandistic potential. After hurriedly shuttling the prisoners across the Delaware to prevent their rescue, Washington triumphantly paraded the men through the streets of Philadelphia on December 30th. According to one eyewitness, the Hessians "made a poor, despicable appearance." Envisioning superhuman myrmidons, many Americans were shocked by their prisoners' fallible forms. After having "the pleasure to see the Hessian prisoners paraded in Front Street," members of the Executive Committee of Congress informed John Hancock that "most people seemed very angry they should ever think of running away from such a set of vagabonds." Nonetheless, crowds turned out in droves to witness the parade of the prisoners. Sara Fisher, a Philadelphia loyalist, observed "a

⁶⁷ See for example, *New-England Chronicle*, January 9th, 1777, *Freeman's Journal*, January 14th, 1777, *Connecticut Gazette*, January 24th, 1777; *Independent Chronicle*, January 16th, 1777. Sara Fisher reported in her diary: "This piece of news greatly elated our Whigs, & as much depressed the Tories." Sara Fisher, "'Diary of Trifling Occurrences,' Philadelphia, 1776-1778," *The Pennsylvania Magazine of History and Biography*, vol. 82, no. 4 (Oct., 1958), 411-465, 419; John Lovell to Major Thomas Moncrieffe, August 7th, unknown year (likely 1779 or 1780). Vol. 229, Fol. 15. Clinton Papers. Clements Library; "Fragment of a letter about the Battle of Trenton sent to Lord Auckland," f.165, Reel 1. Auckland Papers. DLAR; Krebs, "Approaching the Enemy," 169-82.

multitude of people going to see the Hessian prisoners." In her opinion, they "looked poorly clad...their outside clothes appeared to be dirty." As one Hessian prisoner phrased it, the Americans "had come to see strange animals and found in their disgust, that we looked like human beings. It seems comical, but it is true, that they had formed such an idea of the Hessians." Hardly the bogymen of their nightmares, the Hessians were humans after all.⁶⁸

While loyalists like Fischer empathized with the prisoners, other Americans called for vengeance. After all, these Hessians were the very men who had plundered and burned their way through New York and New Jersey. According to one English officer, there was little love lost between the two groups: "Ever since their first landing on *Long-Island*, the Provincials have borne them [the Hessians] a grudge, and they in return have not been backward in showing their dislike." Those feelings now manifested themselves in the form of taunts, insults, and abuses. A Hessian officer, Lieutenant Jakob Piel, reported being greeted in Philadelphia by "a great confluence of people whose catcalls were not complimentary." As they were marched through the streets, "old women who were present screamed and scolded at us in a terrible manner and wanted to strangle us because we had come to America to steal their freedom," according to Johannes Reuber, a Hessian grenadier. In his evaluation of the situation, "the people were so angry and so threatening toward us" that they "nearly overpowered the guard."

⁶⁸ William Duane, ed., *Extracts from the Diary of Christopher Marshall: Kept in Philadelphia and Lancaster, During the American Revolution, 1774-1781* (Albany, NY: J. Munsell, 1877), 110; Executive Committee to Hancock. December 30th, 1776. Force, *American Archives*, 5th series, 3:1483; Sara Fisher, "'Diary of Trifling Occurrences,'" 419; Diary of Hessian Lieutenant Jakob Piel from 1776 to 1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 28. NYPL.

For many Americans, justice required that these Hessian prisoners be punished for their crimes.⁶⁹

Washington had other plans. With neither commitment to parliamentary supremacy nor vested interest in the outcome of the conflict, the Hessians were not only potential recruits for the Continental army but also potent political weapons. Once exchanged, the Hessian prisoners, provided they were civilly treated and shown the benefits of American citizenship, might destabilize the British war machine by spreading disaffection among their comrades. Were Howe's Hessian host to be significantly depleted by desertion, the British treasury would suffer and Howe's offensive capability would diminish. In the aftermath of the battle, Washington ordered that "the [Hessian] Officers and Men should be separated. I wish the former may be well treated, and that the latter may have such principles instilled into them during their Confinement, that when they return, they may open the Eyes of their Countrymen." Washington had earlier concocted a plan to spread disloyalty and dissension among the Hessians. A Hessian prisoner had apprised the general in October that much of the Hessian force had been recruited by threat of violence or worse, and that if assured of good treatment by the Americans, they "would all lay down their Arms—[they] have no desire to return to thier [*sic*] Ridgments [Regiments] again."⁷⁰ Hoping to capitalize on the Hessians' distressed situation, Congress offered "all such foreigners" who agreed to become citizens of the United States "the rights, privileges and immunities of natives." To sweeten the deal,

⁶⁹ Extract of a Letter from an English officer, dated New-York, December 3rd, 1776. Force, *American Archives*, 5th series, 3:1059; Diary of Hessian Lieutenant Jakob Piel from 1776 to 1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 28. NYPL; Diary of Johannes Reuber, 1776-1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 32. NYPL.

⁷⁰ Washington to the Pennsylvania Council of Safety. Newtown, PA. December 29th, 1776. *PGW*; Testimony of Christian Guiler enclosed within Brigadier General Hugh Mercer to Washington. Amboy, NJ. October 16th, 1776.

Congress promised to "provide, for every such person, fifty acres of unappropriated lands in some of these States, to be held by him and his heirs in absolute property."

Washington hoped that this enticing offer would ensure that the Hessians' release would "be attended with many salutary consequences." Material advantage thus amplified Washington's commitment to the European tradition of humane treatment of prisoners. He must have been pleased that Congress acquiesced to his suggestion, advising that "both the officers & men shou'd be well treated." Washington's subordinates listened as well. Hessian Lieutenant Piel gratefully recorded the "friendly treatment" he received from Colonel George Weedon in the wake of the battle. With his army convinced, Washington now had the unenviable task of changing the American people's opinion of the Hessian prisoners.⁷¹

By marching the poorly clad and dejected men through Philadelphia, Washington and the revolutionary leadership in Congress hoped that the populace might come to pity the prisoners and treat them with kindness. Not confident that the sight of the miserable prisoners was enough to elicit compassion from hardened revolutionaries, the Pennsylvania Council of Safety circulated an address repeating Washington's instructions. They hoped that the prisoners "may be well treated, and have such principles instilled into them, whilst they remain prisoners, that when they return on being exchanged, they may fully open the Eyes of their Countrymen." In addition to

⁷¹ Resolves of Congress, August 14th, 1776. *JCC*, 5:654-55; Washington to the Board of War. Hackenseck [sic], NJ. November 15th, 1776. *PGW*. As the Pennsylvania Council of Safety phrased it: "It is our interest to improve the present opportunity to make them our friends, and sow the seeds of dissension between them and the British troops. The Germans, by treating them as brethren and friends, may do the most essential service to our cause." In Council of Safety, Philadelphia, December 31, 1776. Force, *American Archives*, 5th series, 3:1511; Executive Committee to Hancock. December 30th, 1776. Force, *American Archives*, 5th series, 3:1483. Piel was much taken with Washington. He thought the American general's "expression when he spoke inspired love and respect." Diary of Hessian Lieutenant Jakob Piel from 1776 to 1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 28. NYPL.

spelling out the advantages of this policy, the Council hoped that revolutionary Americans would come to re-imagine their Hessian enemies. Instead of bloodthirsty mercenaries, "these miserable creatures now justly excite our compassion—They have no Enmity with us." In an attempt to erase the memory of the Hessians' earlier depredations, the Council explained that "their pay [is] a mere pittance, they were necessitated and encouraged to plunder. It is therefore nothing strange that they have been guilty of great irregularities, tho inferior to the brutal behaviour of the British Troops." According to the Council, it was the British, not the Hessians who were responsible for the atrocious conduct of the war around New York. Summarizing the desired alteration in American opinion, the Council argued, "We ought no longer to regard them as our Enemies... 'Tis Britain alone that is our Enemy." Apparently the Council's missive had the desired effect. One Hessian prisoner recorded that "everyday people came from the city with food for us. Old, young, rich and poor, and all treated us in a friendly manner." While not everyone agreed with the Council, Washington's propaganda campaign, combined with actual experience with the prisoners, served to expose the Hessians for what they really were: mere pawns in the British imperial project.⁷²

Washington knew, however, that compassion would become revulsion if the prisoners were not properly supplied and quartered in short order. He ordered his Deputy Quartermaster General, Clement Biddle, to forward the men to Lancaster, where they could be more easily housed and fed. In a letter to the Council of Safety in Philadelphia,

⁷² Daniel Krebs has called this parade a "rite of humiliation" that "hurt the soldiers' pride, degraded them, and took away from their masculinity." Instead, I suggest that the parade served the dual purpose of boosting morale among the loyal revolutionaries as well as demonstrating the harmless and pitiable condition of the prisoners. Washington hoped that the people of the city would see the soldiers' innate humanity and treat them with kindness. Krebs, "Approaching the Enemy," 174; Address of the Council of Safety of Pennsylvania to the Public. December 31st, 1776. *Pennsylvania Archives*, 5:146; Diary of Johannes Reuber, 1776-1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 32. NYPL.

Biddle suggested that the state appoint a commissary of prisoners "to furnish Provisions [and] have Charge of them." In the absence of a commissary, the Lancaster Committee of Safety ordered "that the Barracks here may be put-in a Condition to receive them [the Hessians] immediately." Lancaster had already housed British prisoners, and the barracks in the city were well appointed to receive the men. To that end, the enlisted soldiers marched out of Philadelphia on January 8th, 1777, "under escort of an American detachment." During their march, the prisoners were quartered in churches "for security."⁷³

Once arrived in the town, the men were housed in the barracks where "everything was peaceful and calm," according to one prisoner. The stone building had seventy-six rooms of approximately 263 square feet, with a fireplace and windows. Surrounded by a fifteen foot high wooden palisade, the barracks were thus a secure and commodious place of confinement. Because Washington hoped to lure the rank-and-file prisoners away from the British, he ordered the officers sent to Baltimore where they could do little to enforce the loyalty of their men. The officers were not pleased. As one Hessian lieutenant phrased it, "As much as we would like to remain with our troops, Congress would not allow it." The enlisted prisoners do not seem to have regretted the lack of supervision. There was no dearth of provisions—Grenadier Reuber noted that he "received one pound of bread and as much meat and such wood as necessary for cooking and heating, and everything which we needed for conducting our households was delivered to us"—and the men were soon allowed to hire themselves out to local farmers

⁷³ Clement Biddle to the Philadelphia Council of Safety. December 28th, 1776. N. 1. Washington to the Pennsylvania Council of Safety. Newtown, PA. December 29th, 1776. *PGW*; Minutes of the Lancaster Committee of Safety. January 3rd, 1777. Lancaster County Committee of Safety Records. Series 7E. Shelf No. 19, 061, Reel 16, Item 68. Peter Force Collection. LOC; Diary of Johannes Reuber, 1776-1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 32. NYPL.

or tradesmen. Welcomed by the prisoners, this practice had the added benefit of relieving "the public of the burthen [*sic*] of maintaining them." According to Reuber, prospective employers were required to "provide food and drink and pay a wage of fifteen stiver daily" for their services. Apparently some prisoners received quite a bit more for their work. Hessian prisoners working in the public buildings near Lancaster earned two shillings, or twenty-four pence, a day for their labor in August, 1777; an extraordinary sum when compared to the eight pence a day British soldiers received for serving the crown. The Hessians had little cause for complaint. As Grenadier Reuber put it, "So far so good."⁷⁴

British prisoners, however, did not share their Hessian colleagues' good fortune. In the past, they had proven obstinately loyal to their king and country, so there was little for the revolutionaries to gain by coddling them. Congress made no provision to offer land to British deserters, and the British soldiers who were captured at Princeton in early

⁷⁴ Diary of Johannes Reuber, 1776-1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 32. NYPL; Krebs, "Approaching the Enemy," 238-240 and Samuel M. Sener, *The Lancaster Barracks: Where the British and Hessian Prisoners Were Detained During the Revolution* (Harrisburg, PA: Harrisburg Pub. Co, 1896). Diary of Hessian Lieutenant Jakob Piel from 1776 to 1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 28. NYPL; Diary of Johannes Reuber, 1776-1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 32. NYPL. Christopher Ludwick, a revolutionary of German decent, also suggested that "the permission to breathe in the open fragranity of American air would be to them [the Hessians] a renewed instance of American public benevolence and lay them under further Obligation to a generous and merciful Enemy." William Ward Condit, "Christopher Ludiwck, the Patriotic Gingerbread Baker," *Pennsylvania Magazine of History and Biography*, LXXXI (1957), 365-390, 377. According to the Oxford English Dictionary a "stiver" was "A small coin (originally silver) of the Low Countries; applied to the nickel piece of 5 cents of the Netherlands (one-twentieth of a florin or gulden, or about a penny English)." *Oxford English Dictionary* (Oxford: Oxford University Press, 2013). Non-commissioned officers were apparently paid even more. Sgt. Kappes received 15 shillings for six days of work. "An Account of Wages due to Hessian Labourers Working at the Public buildings in Lancaster. August 16th, 1777." MSS 88.190.228. LSC. A British soldier during the period of the American Revolutionary War was paid eight pence a day, about half of what the Hessian prisoners earned when hired out. Douglas R. Cobbison, "Eight Pence a Day: The Pay of the Private British Soldier during the War for American Independence," *Liberty Tree Newsletter*, (July/August 2007); Diary of Johannes Reuber, 1776-1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 32. According to a local provisioning agent, Joseph Simon, "upwards of 600" Hessian prisoners hired out their labor to American employers. Miller, "Dangerous Guests," 105-106.

January were not shielded from the anger of the populace. While the Hessian prisoners were immediately dispatched to Lancaster, the "British Prisoners and Tories" were "sent to the State Prison" in Philadelphia. Only overcrowding and fear of jailbreak persuaded their captors to send the Britons to the backcountry. Unsurprisingly, the British prisoners grew restive. Local officials at inland detention centers reported that the recently arrived prisoners "behav'd exceding[ly] bad coming from Philadelphia," and continued to "behave Ill here," in contrast to the Hessian prisoners who "behave well." Consequently, instead of being permitted to hire out their services, the captured Britons were confined to the barracks or the local jail. A party of twenty-seven British dragoons begged the Philadelphia Committee of Safety for "the liberty of walking about to take a little fresh air" because they were "in a very indifferent state of health, three of them being very ill." The committee did nothing to relieve their suffering. Despondent, several British prisoners in early May, 1777, asked the Committee of Safety why they were "Confin'd to goal as Criminals?" Although there is no record of an official response to their petition, the prisoners must have known that unlike their Hessian comrades, in the eyes of their American captors, they no longer deserved humane and mild treatment. Lancaster residents were well aware of the deplorable conditions of American prisoners, many of them from their own community, confined aboard British prison ships in New York. In light of the reports coming from New York, a cramped and damp jail cell was more than the British enlisted men deserved. Even if Congress had wanted to relieve their plight, the prisoners were in the hands of the local committee of safety, and without a Continental Commissary of Prisoners to enforce national policy, Congress's hands were tied.⁷⁵

⁷⁵ General Orders. Trenton, NJ. February 6th, 1777. AM 6093. Charles Swift Riché Hildeburn

The British prisoners' confinement in Lancaster was mild when compared to the plight of African-Americans captured in opposition to the revolutionary cause. A "Negro man nam'd Tom," who had fled enslavement to enlist with the Hessian troops in the fall of 1776, was dragged from his confinement as a prisoner of war and returned to his master Samuel Henry of Trenton in February, 1777. Hessian regiments actively recruited runaway slaves as musicians, and Tom was likely serving in that capacity when he was captured at the Battle of Trenton. Though he was initially treated as a prisoner of war, his captors reported that "he was not in Arms." Nonetheless, under European conventions, field musicians were entitled to the same privileges as their armed comrades. Both Hessian and British prisoners could be confident of their eventual release, if not by exchange then at the end of the war, but Tom had no such prospect; unless the British army marched near his master's abode once more, he would likely remain a slave for the rest of his life. Unfortunately, Tom's case was not unique. Throughout the war, blacks in Hessian and British service were denied the protections of prisoner-of-war status. Either returned to their masters, or forced to serve as privateers or laborers for the revolutionary forces, black soldiers were segregated from their white comrades and deemed ineligible for the "many indulgences" their white comrades received.⁷⁶

Collection 1760-1777. HSP; Levy Andrew Levy to Patrick Rice, April 25th, 1777. MacAllister Mss, HSP; Miller, "Dangerous Guests," 108. There is no record of any action in the Committee of Safety Papers in regards to the petition of these prisoners. Petition of Two Corporals and Twenty-Five Privates belonging to the 16th, or Queen's Regiment of Light Dragoons to the Philadelphia Committee of Safety. Philadelphia Goal. January 22nd, 1777. Number 348. Reel 36. Pennsylvania State Government Papers. DLAR; British prisoners to the Lancaster Committee of Safety. May 3rd, 1777. Series 9, Reel 103, Peter Force Collection. LOC; Miller, "Dangerous Guests," 108.

⁷⁶ Acknowledgement of William Henry. Philadelphia, February 15th, 1777. No. 410. Pennsylvania State Government Papers. Reel 36. DLAR; George Fenwick Jones, "The Black Hessians: Negros Recruited by the Hessians in South Carolina and Other Colonies," *The South Carolina Historical*



(Fig. 3)

Drummer of the Hessien Second Guard Regiment by J.H. Carl, c. 1784.
Anne S.K. Brown Military Collection. Brown University Library, Providence, Rhode Island

Although temporary confinement in Lancaster was preferable to the state of perpetual slavery, Tom was fortunate to have been absent from the barracks in early June when British prisoners staged a riot. Seeing Hessian prisoners free to ply their trades and travel about the countryside effectively unfettered must have galled the British prisoners. The men had earlier been confined to the barracks for their "unruly & threatening conduct," which made the inhabitants of the town "uneasy." Celebrating the king's birthday on June 4th with a bonfire in the barrack's courtyard, the inebriated prisoners became raucous. According to Reuber, who was an eyewitness, the Britons' revelry "created such a disturbance." When American troops tried to put an end to the proceedings, the British captives "attacked the fifteen men of the American guard, took

Magazine, vol. 83, no. 4, (Oct., 1982), 287-302, 296-7; Lowell, *The Hessians*, 106; Benjamin Quarles, *The Negro in the American Revolution* (Chapel Hill: UNC Press, 1961), 147.

their weapons, broke them into pieces, and threw them into the fire." Panicked by their prisoners' insubordination, the guards called for reinforcements. From Reuber's vantage point, it looked as if "an entire regiment with two cannon marched into the barracks courtyard." Presenting their muskets, the Americans "delivered a fire against the English. Some were initially killed and some wounded." The surviving ringleaders were identified and sent to the city's jail in irons. American authorities were pleased that the Hessians had not taken part in the riot and rewarded them accordingly. In Reuber's words, the Hessian prisoners "received much better treatment than the English;" they were "prospering."⁷⁷

The ability of the prisoners to launch a riot, and the extreme violence of the local authorities' reaction to it, however, highlighted to Congress the deficiencies in the decentralized American system of prisoner administration, as well as the pressing need for an expedited exchange. Even prior to the riot, the secretary of the Board of War, Richard Peters, lamented that "there have been many Enormities committed both by the Persons having the Care of them [the prisoners] and the Prisoners themselves." He explained: "Sometimes the Comittees [*sic*] have been unreasonably rigorous & other Times so culpably lax & inattentive that the most flagrant & dangerous Abuses & treasonable Practices have been committed & carried on by Prisoners." Congress had attempted to rectify the problem by permitting Washington to appoint a Continental Commissary General in April 1777, but as the events of the June riot suggest, simply creating the position was no solution. Nonetheless, Washington was hopeful that all

⁷⁷ Lancaster County Committee, June 5th, 1777. Series 8D, Reel 48, Peter Force Collection. LOC; *Pennsylvania Archives*, First Series, 5:376; Diary of Johannes Reuber, 1776-1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 32. NYPL; Miller, "Dangerous Guests," 109; Diary of Johannes Reuber, 1776-1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 32. NYPL.

prisoner affairs could be centralized and an official cartel established. Failing to secure his first choice for the post—Colonel Cornelius Cox of Pennsylvania thought a desk job inglorious—Washington hit upon the thirty-seven year old New Jersey lawyer Elias Boudinot. The prominent attorney was no soldier, but he had clout in Congress and a predilection for lists, ledgers, and letters. After some hesitation, Boudinot accepted the post of Commissary General and began the monumental task of administering enemy prisoners and relieving the distress of Americans in British custody. He had his work cut out for him. Boudinot would later recall that "soon after I had entered on my department, the applications of the Prisoners were so numerous [,] and their distress [was] so urgent," that he did not know where to begin. As the pleading letters from prisoners on both sides began to pour in, Boudinot must have had second thoughts about accepting so much responsibility with so little power.⁷⁸

From the outset, Boudinot was at a distinct disadvantage. Unlike his British counterpart, Joshua Loring, Boudinot did not have the authority to direct individual state officials in matters of prisoner administration. Congress had already permitted each state to establish its own commissariat of prisoners to oversee the care and management of both prisoners of war, and so-called "state" prisoners, or loyalists. Boudinot confessed his frustration to Secretary Peters in mid June: "I have lately rec'd from the Clerk of the Congress, Copies of the Resolutions made since the Commencement of the War relating

⁷⁸ Richard Peters to Elias Boudinot, April 29th, 1777. War Office, Philadelphia. MMC 721. Boudinot Papers. LOC. Washington was confident that the job would be "not hard" and that the "Commissary of Prisoners will have... much leizure [*sic*]." Washington hoped the extra time would be spent in "the procuring of Intelligence." Washington to Boudinot. Morris Town, NJ. April 1st, 1777. *PGW*. See also, Burrows, *Forgotten Patriots*, 84-5; George Adams Boyd, *Elias Boudinot: Patriot and Statesman, 1740-1821* (Princeton: Princeton University Press, 1952), 33-35; Boudinot to the Governors and Executive Bodies of the Thirteen States. Morris Town, NJ. April 17th, 1777. Boyle, "Their Distress is almost intolerable", 1; Elias Boudinot, *Journal or Historical Recollections of American Events During the Revolutionary War* (Philadelphia, PA: Frederick Bourquin, 1894), 9.

to my department, among wch. is one requesting each State to appoint a Commissary of Prisoners of War—This resolution militates directly agt. my Appointment." Already aware that individual state interests would invariably clash with continental ones, Boudinot was firmly of the opinion "that the Office should finally center in one Man." Congress could not easily undo its own resolutions, however, and the states jealously guarded their prerogatives. To mollify Boudinot, the Board of War ordered that he be allowed "to appoint three Deputies under him" and instructed "that all Commissaries...be obliged at any time when required by the Commissary General of Prisoners...to deliver over to him...all such Prisoners of war as are or shall be in their care" for the purpose of exchange. Notwithstanding the official expansion of his powers, Boudinot was vexed that "no clear chain of authority was outlined." He could not issue any orders, only recommendations, concerning the lodging, provisioning, or financing of prisoners in state custody. Moreover, he was financially constrained by a congress with more pressing concerns—paying, feeding, lodging, supplying, and arming the continental army and navy. Hoping to build additional barracks to house prisoners, Boudinot failed time and again to obtain sufficient funds from Congress.⁷⁹

Boudinot was more successful, however at investigating and relieving the distressed conditions of American prisoners in British hands. Deluged with "complaints of the cruel Treatment of a number of our Prisoners, taken by the Enemy & confined in the Goals of the City of New York," he conducted "an Inquiry into the Truth of the Facts alleged." Communicating with not only the American commissary residing in New

⁷⁹ Elias Boudinot to Richard Peters. June 16th, 1777. Middle brook [sic], NJ. Boyle, *"Their Distress is almost intolerable"*, 8-9; Report of the Board of War. June 20th, 1777. Philadelphia. PCC, Item 147, Vol. 1, Page 231; Quoted in Krebs, "Approaching the Enemy," 266; Dixon, "Divided Authority," 98-100. Krebs, "Approaching the Enemy," 266. Haffner, "The Treatment of Prisoners of War," 178-80.

York, Lewis Pintard, but also with the British commissary Joshua Loring, Boudinot concluded that "there is Evidence of the greatest Cruelty being used towards several of our unhappy Prisoners." He was informed that "several of our Officers who have lately had the small Pox in the Goals, have been suffered to languish (one of whom died) with out the least aid either as to Physick [*sic*], Provision or other necessities—That in general the daily Rations are not sufficient more than barely to keep the Prisoners from starving." To combat their privation, Boudinot worked with Pintard to supply the men out of his own pocket. When Congress finally acquiesced to his repeated requests for funds, they provided him with a meager £600, hardly enough to reimburse the British for the expenses the prisoners had already incurred. Although Boudinot would later describe his efforts as "very small & very indifferent," to the prisoners, the supply of clothing and provisions he provided was often the difference between life and death. Despite Boudinot's best efforts, Pintard reported that the prisoners "all want more Exceedingly and are very pressing for it."⁸⁰

The only thing that would have effectively relieved the prisoners' distress was beyond Boudinot's control: an exchange. Although Howe had neither changed his mind nor abandoned his earlier desire to effect an exchange, Washington was determined to "send in no more prisoners" until Howe agreed to exchange prisoners in the order of their capture. Concerned with the equity of the cartel, Washington wanted those prisoners who had been longest in British custody, such as Ethan Allen, released first. Howe, on

⁸⁰ Boudinot to Washington. Camp at Quibble Town. June 26th, 1777. MMC 721. Boudinot Papers. LOC; Dixon, "Divided Authority," 96; Secret Committee of the Continental Congress to Washington. Philadelphia, PA. May 2nd, 1777. *PGW*; Burrows, *Forgotten Patriots*, 86; Boudinot, *Journal or Historical Recollections*, 10; Lewis Pintard complained in September, 1777, that the flour Boudinot sent "will not furnish one half of them." Pintard to Boudinot. New York. September 20th, 1777. Elias Boudinot Papers. (PHi 68) Vol. 1. HSP; Pintard to Boudinot. New York. September 20th, 1777. Elias Boudinot Papers. (PHi 68) Vol. 1. HSP.

the other hand, maintained that the cartel stipulated only that the exchange be conducted on the basis of equity of rank, not length of captivity. He did not have the time, ability, or inclination to search the city for the specific prisoners Washington had requested. The American general, however, was determined to stand his ground. As he informed Governor Trumbull, "General Howe, without paying any regard to my request, sent out such [prisoners] as best pleased him." Unless Howe agreed "to send out such only as I name," Washington would "not send any more of his prisoners in."⁸¹

To complicate matters, in late December British forces captured American Major General Charles Lee and immediately conveyed him to confinement in New York. Congress's darling, Lee was everything Washington was not: brash, mercurial, unkempt, radical, and most importantly, an experienced European officer. Both men had seen battle under General Braddock in 1755, but Lee, born in Cheshire as the son of a British officer, had possessed a king's commission. A veteran of both the American and European theatres of the war, Lee immigrated to Virginia on the eve of the revolution after alienating most of his former colleagues and resigning his commission. Not one to eschew the limelight or shirk the quest for glory, Lee offered his services to Congress in 1775 and was one of the first generals commissioned.⁸² Although Washington referred to him as "the first officer in Military knowledge and experience we have in the whole army," there was little camaraderie between the two men, and more than little envy and competition on both sides. Many in Congress believed that Lee, not Washington, should

⁸¹ Washington to Brigadier General Alexander McDougall. Newtown, PA. December 28th, 1776. *PGW*; Washington to Howe. Bucks County, PA. December 17th, 1776, Washington to Trumbull. Bucks County, PA. December 21st, 1776, and Howe to Lord George Germain, New York, December 18th, 1776. *The Parliamentary Register*, 11:368; Washington to Trumbull. Bucks County, PA. December 21st, 1776. *PGW*.

⁸² Fischer, *Washington's Crossing*, 146-159. See also, John Richard Alden, *General Charles Lee: Traitor or Patriot?* (Baton Rouge: Louisiana State University Press, 1951).

be in command of the continental forces. In July 1775, Abigail Adams notified her husband that Lee's appointment to the army gave "universal satisfaction. The people have the highest opinion of Lees [*sic*] abilities." In contrast to Washington's meticulous attention to dress and decorum, Lee looked to Mrs. Adams "like a careless hardy Veteran" who conjured images of Sweden's warrior king, Charles XII. With the loss of Richard Montgomery in the Canadian campaign, many in Congress agreed with Adams, seeing Lee as an invaluable experienced officer who they could not afford to lose. When word of his capture reached Philadelphia, John Hancock instructed Washington to send an officer under flag of truce "to Genl Howe to know in what Manner Genl Lee is treated." Congress even managed to appropriate "one Hundred Half Johannes...to render the Situation of that Gentleman as easy as possible during his Captivity." Hancock echoed most revolutionaries when he confided to Washington that Lee's "loss must be extremely regretted by every Friend to this Country."⁸³

To General Howe, Lee was no friend to his country, he was a deserter. For a man who had been born and bred in England, and honored with a commission from his king, to command a parcel of rebels was not only disgraceful but also treasonous. In the opinion of one British officer, Lee was an "atrocious Monster" who was "as perfect in Treachery as if he had been an American born." Cries of treason resounded across the Atlantic. One English lyricist recorded his disdain for Lee by imagining the general's execution in verse: "On the bare earth Charles Lee shall kneel, Young Harcourt [the arresting officer] draws the shining steel, and bids the party—fire!" From the vantage

⁸³ Washington to John Augustine Washington. Cambridge, MA. March 31st, 1776. *PGW*; Abigail Adams to John Adams. Braintree, MA. July 16th, 1775. *Adams Papers*; Hancock to Washington. Baltimore, MD. December 23rd, 1776. *PGW*; Fischer, *Washington's Crossing*, 147-149.

point of many Britons, Lee, even more so than Ethan Allen, looked like a suitable subject for summary justice.⁸⁴

Although Lee informed Howe that he had resigned his commission, the British general was unsure of how to proceed. The hardliners in his army and at home were calling for Lee's head; were Howe to release the man on parole, he would appear weak and soft on rebellion and treason. Aware that many of his junior officers were suspicious of his Whig politics, his connections to America, and his apparent inability to isolate and destroy Washington's army, Howe could not afford to be seen as overly generous toward Lee. Consequently, Howe denied Lee parole and ordered the American general confined in the city hall while he awaited orders from London. Hardly the stark surroundings of the improvised jails, sugar houses, or prison ships that other American prisoners endured, Lee's cell was "one of the genteelest [*sic*] public rooms in the City," according to loyalist historian Thomas Jones. But, however luxurious his quarters, Lee was still a man in limbo. One word from the British ministry, which had no reason to look favorably upon him, would send Lee to the gallows.⁸⁵

American printers soon took up the story of Lee's capture and disseminated inflated and exaggerated accounts of his treatment. The American reading public, who by now had little reason to doubt accounts of British atrocity, were outraged to learn that Lee was treated "with every other Marks of Indignity" and confined "in a small mean looking house." Congress received word in early February that "General Lee hath, since his captivity, been committed to custody of the provost, instead of being enlarged upon his

⁸⁴ Captain John Bowater to the Earl of Denbigh. New York. June 5-11th, 1777. Marion Balderston and David Syrett, eds., *The Lost War: Letters from British Officers During the American Revolution* (New York: Horizon Press, 1975), 130-1; "Ode on the Success of his Majesty's Arms," *General Advertiser and Morning Intelligencer* (London, England), December 12th, 1777.

⁸⁵ Burrows, *Forgotten Patriots*, 71-2; Jones, *History of New York*, 1:173.

parole, according to the humane practice that has taken place with officers of the enemy who have fallen into the hands of the American troops." Sharing their countrymen's indignation, Congress invoked "the principles of retaliation." Should Howe refuse to accept the immediate exchange for Lee of "six Hessian field officers" who had been captured at Trenton, "the same treatment which General Lee shall receive, may be exactly inflicted upon" those men. In case Howe was immune to threats against foreign officers, Congress substituted Lieutenant Colonel Archibald Campbell for one of the Hessian field officers. The Council of Massachusetts was ordered "to detain Lieutenant Colonel Campbell," who had been enjoying a lenient parole, until Howe had the opportunity to respond.⁸⁶

Without orders from his superiors, Howe could do little to appease Congress in the matter of General Lee; he could, however, release other American prisoners under the terms of the cartel. Early in the new year, Commissary Loring, at Howe's behest, opened the doors of the makeshift prisons and hatches of the hulks to send many of the Fort Washington prisoners on their way. While Howe did not release all of his prisoners, historians estimate that over 1,800 of the men who had been captured during the New York campaign were released during the winter of 1776-1777. The gesture was not simply a mark of Howe's humanity, however; he was aware that smallpox and typhus were rampant in his prisons, and most of the men would not survive the winter. By returning the prisoners before disease could claim their lives, Howe could demand an equal number of healthy British prisoners in return under the conditions of the cartel. Not surprisingly, on their trek homeward the men perished in droves. The effects of

⁸⁶ *New-England Chronicle*, January 2nd, 1777; *Freeman's Journal*, February 11th, 1777; *JCC*, 7:16.

malnutrition, close confinement, and disease took their toll. One American officer was horrified by "the miserable emaciated Countenances of those poor Creatures who have lately been released." Those who made it home alive were perfect vectors for the pestilence. Governor Trumbull feared that "our returning Soldiers have spread the Infection into almost every Town in the State." A New Yorker claimed that "General Howe has discharg'd all the privates, who were prisoners in New York, one half he sent to the world of spirits for want of food—the other he hath sent to warn their countrymen of the danger of falling into his hands." If Howe had hoped that releasing the men would guarantee the good treatment Lieutenant Colonel Campbell and the Hessian field officers, he was to be disappointed.⁸⁷

On February 20th, 1777, Congress directed the Board of War "to order the five Hessian field officers and Lieutenant Colonel Campbell into safe and close custody; it being the unalterable resolution of Congress to retaliate on them the same punishment as may be inflicted on the person of General Lee." This was not a decision that was taken lightly. Cognizant that their actions were scrutinized by foreign powers, and aware of the judgmental glare of posterity, Congress nevertheless believed the measure necessary and justified to "teach our cruel enemies to regard the laws of nations and the rights of humanity." The Board of War did not delay in carrying out Congress's orders.

Lieutenant Jakob Piel, now confined in Baltimore, recorded that the local committee of

⁸⁷ Burrows, *Forgotten Patriots*, 79, 63. A report dated January 10th, 1778, lists 1,701 Americans released by the British during the course of the preceding year. (PHi 68). Elias Boudinot Papers. HSP. Howe claimed to have released "Two Thousand Two hundred Privates of the Enemy, his prisoners." Paper from Lieutenant Colonel William Walcott. Hillsborough Township, NJ. April 2nd, 1777. *PGW*; Washington had been informed of the men's condition by a Captain Gamble. Washington to the Continental Congress Executive Committee. Morris Town, NJ. January 12th, 1777. *PGW*; Trumbull to Washington. Lebanon, CT: February 24th, 1777. *PGW*; Burrows, *Forgotten Patriots*, 63-65. The letter continued: "It is infinitely better to be slain in battle, than to be taken prisoners [*sic*] by British brutes, whose tender mercies are cruelty." "Extract of a letter from Peeks kill, dated January 19th, 1777." *Freeman's Journal*, February 18th, 1777.

safety "notified our staff officers of their arrest and placed sentries before their quarters" in early March. Although he had already been committed to "the common goal of Concord" on February 1st, when Congress's order reached the Massachusetts Council, Colonel Campbell was "lodged in a dungeon of about 12 or 13 feet square whose sides are black with the grease and Litter of successive Criminals. Two doors with double locks and Bolts shut me up from the yard." His cell contained only "two small windows strongly grated with Iron," which only served to let in the "frost and snow" of the Massachusetts winter.⁸⁸

Campbell was at a loss to explain his treatment. He informed Howe that upon his capture he had received "every mark of humanity, and treatment suitable to my Rank" from "the Controlling Power at Boston." He now found himself "striped of half my private property[,] the very necessaries of life" in "a lothsome [*sic*] black Hole" still redolent of the "very excrement" of the prior occupant. Campbell's only companions were his "little friends the mice." He wished the "Yankees were so honest & humane as those little urchins." If this was Congress's idea of "humanity and kindness," then those once lauded virtues were now "crimes more atrocious than oppression and cruelty." While General Lee slept warm in his bed, attended by an Italian servant and with his beloved dog as company, Campbell wasted away in a stone prison, open to the elements, without heat, and accompanied only by the prison rats who shared his meager meals.⁸⁹

⁸⁸ This was not exactly the proportional retaliation allowed by Vattel as a means of enforcing the laws of nations. Instead of retaliating on one prisoner, Congress ordered six men into confinement. The conditions of their confinement were also considerably harsher than that General Lee experienced. *JCC*, 7:135; Diary of Hessian Lieutenant Jakob Piel from 1776 to 1783. Hessian Papers. George Bancroft Collection. Translations by Bruce Burgoyne. No. 28. NYPL.

⁸⁹ Lt. Col. Archibald Campbell to Howe. Concord Jail. February 14th, 1777. Ms. N-801. James Murray Robins Papers. MHS; Campbell to Mrs. Inman. Concord, MA. May 14th, 1777. Ms. N-801. James Murray Robins Papers. MHS. Thomas Jones compared Lee and Campbell's confinement thusly: "General Lee was confined in the Council Chamber in the City Hal, one of the genteelest public rooms in the City,

Washington and many of his officers were ill at ease with Congress's heavy hand. He had received intelligence that Lee's confinement was considerably milder than Congress imagined. Even if the reports of Lee's mistreatment were true, to retaliate on six men for the hardships endured by one seemed to be a flagrant misuse of the *lex talionis* and a violation of the laws of nations and customs of war. Washington had been prepared to exact "the most severe and adequate Retaliation" when rumors of Lee's rigorous confinement and impending trial for desertion and treason seemed valid, but with fresh intelligence in hand, he believed Congress had erred. Always deferential to his civilian masters, Washington nonetheless informed Hancock that Congress's resolutions were "founded in impolicy, and will, if adhered to, produce consequences of an extensive, and melancholy nature." He believed that retaliation, though "just & sometimes necessary...should be avoided." Lecturing Hancock on Congress's lack of foresight, Washington argued that retaliation would only lead to the escalation of violence on the part of the British. "Can we imagine that our Enemies will not mete the same punishments—the same indignities—the same cruelties to those belonging to us in their possession, that we impose on theirs in our power? Why should we suppose them to possess more Humanity than we have ourselves[?]" Congress's decision to retaliate primarily on Hessian officers would only serve to undo the effects of the propaganda campaign to seduce Hessian soldiers away from British service. In short, Washington

square compact tight, and warm... He had directions to order a dinner every day from a public house, sufficient for six people, with what liquor he wanted... He had the privilege of asking any five friends he thought proper, to dine with him each day. This was all furnished at the Expense of the nation... His servant had free access to him at all times. Yet by way of retaliation (as it was pretended) Colonel Campbell...was taken up, lodged in a dungeon, without a bed, allowed nothing but bread and water, denied the use of pen, ink, and paper, his servant refused admittance, and in this unhappy situation did he continue many months, while Lee was wallowing in luxury at the expense of the Crown. Yet these were the people, who upon every occasion boasted of their lenity and humanity to British prisoners, while they publically and openly taxed the British army with acts of barbarity to such American prisoners as had the misfortune to fall into their hands." Jones, *History of New York*, 1:173-4; Burrows, *Forgotten Patriots*, 71.

felt that "the mischeifs [*sic*] which may & must innevitably [*sic*] flow from the execution of the Resolves, appear to be endless & innumerable." General Nathanael Greene was equally frank in his remonstrance to the president of the Board of War, John Adams: "I cannot help thinking the sacrafice [*sic*] you are makeing [*sic*] for General Lee is impolitick as it respects the Hessians, and unjust as it respects our prisoners with General How[e]." Notwithstanding the logic of their commanders' arguments, Congress refused to budge. As long as Lee remained in close custody with the specter of execution looming over head, so too would Campbell and the Hessians.⁹⁰

Congress did, however, empower Washington to negotiate with Howe for Lee's release. If the British agreed to treat Lee as a prisoner of war, Washington was free to carry out the general cartel of exchange. On 10 March 1777, envoys sent by Howe and Washington, Lieutenant Colonels William Walcott and Henry Harrison respectively, met at Brunswick, New Jersey, to negotiate the exchange. On behalf of Howe, Walcott demanded that Washington return an equal number of British prisoners for the sickly men the British had released. For his part, Harrison refused to consider any proposal until the British agreed to treat Lee as a gentleman officer eligible for parole and exchange. Walcott believed it his duty to "adhere strictly & literally to the Terms of the Original Agreement," and he declined comment on Lee's status. Harrison could not exchange healthy British soldiers for the ghosts of "many of [the prisoners who] died on their Return to the place of the intended Destination immediately after their Arrival, and [the]

⁹⁰ Washington to Hancock. Morris Town. January 12th, 1777. *PGW*; Washington to Hancock. Morris Town. March 1st, 1777. *PGW*. Growing frustrated, Washington told Robert Morris, "The resolve to put into close confinement Lt Colo. Campbell and the Hessian Field Officers in order to retaliate Genl Lees punishment upon them, is, in my opinion, injudicious in every point of view; and must, I conceive, have been entered into without due attention to Circumstances, & Consequences." Washington to Morris. Morristown, NJ. March 2nd, 1777. *PGW*; Greene to Adams. Baskenridge [*sic*], NJ. March 3rd, 1777. *Adams Papers*; *JCC*, 7:179; Hancock to Washington. Philadelphia, PA. March 17th, 1777. *PGW*.

many since owing to their close & rigorous Confinement." They were at an impasse. After a nine hour meeting, negotiations broke down and both sides returned to their commanders empty handed.⁹¹

Although informal negotiations continued all summer, no agreement was reached. In September 1777, Lord Germain instructed Howe "to put an immediate end to a fruitless Negotiation." In the absence of a cartel, American prisoners continued to suffer aboard British prison hulks and makeshift jails in New York, and the tide of American popular resentment continued to turn against British and loyalists prisoners in American custody. An easy target for retribution, Colonel Campbell endured "the Infamous insults of the lower class of people which daily mob about him." The time for negotiation was over. Only a reversal in the fortunes of war would bring both parties to the table again.⁹²

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On the surface, the New York campaign looks like a textbook example of eighteenth-century European warfare. British forces engaged and defeated their foes in several pitched battles, occupied one of the enemy's most populous and prosperous cities, and opened peace negotiations with representatives of their opponent's government. Only a brilliant tactical *coup de main* on the part of the enemy's commander-in-chief forestalled a resounding British victory. Viewing the campaign from this angle, as its

⁹¹ JCC, 7:197; William Walcott to Howe. Brunswick, NJ. March 11th, 1777. Reel 3. No. 435. Carleton Papers. DLAR; "Minutes of the Meeting between Lieut. Colos. Harrison and Walcott. March 10th, 1777. Brunswick, NJ. Reel 3. No. 436. Carleton Papers. DLAR; Dixon, "Divided Authority," 255-259.

⁹² Germain to Howe. Whitehall. Reel 3. No. 661. Carleton Papers. DLAR. In a letter to a Mrs. Inman, Lieutenant and Regimental Adjutant of the 71st Highlanders, Archibald Campbell, informed her that Lieutenant Colonel Archibald Campbell (his commanding officer then confined in the Concord Jail) "has Experienced shameful Instances of the Infamous insults of the lower class of people which daily mob about him." Reading, PA. March 28th, 1777. Ms. N-801. James Murray Robins Papers. MHS.

principal historians have done, obscures the very real transition in the nature of the conflict that took place during the campaign: the advent of civil war. In order to capture and pacify New York, the British relied on hired Hessians and armed loyalists to bolster their forces. Over the course of the campaign, the Hessian penchant for plunder and the loyalist quest for revenge resulted in very real crimes and atrocities that the American press wasted no time in exploiting. In this context, the revolutionaries came to envision loyalists not simply as deluded neighbors, but rather as armed rebels against the United States. To most revolutionary Americans, who previously had little experience with war, the realities of this conflict looked nothing like their idealized vision of "civilized" combat. When reports of the "poor, sick, dying prisoners" in New York circulated, Americans had little trouble believing their enemies responsible for willful murder. Notwithstanding the prisoners' complaints that Congress, in its inability to provide for the imprisoned men and to uphold the conditions of the cartel, was the true author of their misfortune, Americans could see only British barbarity. In the popular American opinion, rebels and barbarians should deserve and receive little sympathy. While matters of policy ensured the generous treatment of the Hessians captured at Trenton, Congress embraced retaliation against enemy prisoners for the first time and communities under British threat sought vengeance for the mistreatment of their citizens in British custody. Although Washington remained critical of the war's escalating violence, he came to realize that in this conflict the mere threat of retaliatory violence was not always enough. As he told Admiral Howe, "You may call us Rebels and say that we deserve no better treatment. But remember my Lord that supposing us Rebels we still have feelings equally as keen & sensible as Loyalists and will if forced to it most assuredly retaliate upon those

upon whom we look as the unjust invaders of our Rights Liberties and properties." This time he was in earnest.⁹³

⁹³ *Connecticut Journal*, January 30th, 1777; Washington to Admiral Lord Howe. Morristown, January 13, 1777. *PGW*.

Chapter Four: The Fortune of War

In the mid-morning hours of October 13th, 1777, a fifty-five year old playwright, sometime actor, gambler, socialite, *bon vivant*, and major general in the British army, recited what must have been the most agonizing lines of his storied career: “The fortune of war, General Gates, has made me your prisoner.” Dapperly clad in his finest gold embroidered scarlet coat, with a profusion of feathers protruding from his elegantly laced cocked hat, General John Burgoyne, known as “Gentleman Johnny” to his friends and foes alike, proffered his sword to the diminutive, bespectacled, and balding American General Horatio Gates. In contrast to the British peacock standing before him, Gates, whose own soldiers called him “Granny,” looked the part of the ascetic republican, clothed in a plain blue frock. The two men's respective appearances, however, belied their similarities. Both were native-born Englishmen, and both had held a king's commission. Unsurprising for men who had belonged to the exclusive fraternity that was the eighteenth-century British officer corps, Gates and Burgoyne had known each other for thirty-two years. Each had begun his military career as a lieutenant in the 20th Regiment of Foot. Although privilege, patronage, and more than a fair share of luck, had catapulted Burgoyne to the highest echelons of Britain's military and civil society while Gates had languished in obscurity, both men were products of Europe's culture of war, and both knew exactly how the surrender would play out.¹

Over the past few days, Burgoyne and Gates, through their respective

¹ James Wilkinson, *Memories of My Own Times* (Philadelphia: Abraham Small, 1816), 2 vols., 1:321. According to a Brunswick officer with Burgoyne, the British general said: “General, the caprice of war has made me your prisoner.” Manuscript Brunswick Journal transcribed in William L. Stone, ed., *Memories, and Letters and Journals of Major General Riedesel during his Residence in America* (Albany: J. Munsell, 1868), 2 vols., 1:190; Ferling, *Almost a Miracle*, 232.

intermediaries, had hammered out the details of an agreement that would bring the hostilities in the northern theatre to a close. Taking a ritualistic form that would have been well known to William of Orange and Marshal Turenne in the last century, or to Maurice de Saxe and the Duke of Cumberland in the last major European war, the negotiations proceeded from Gates' initial demand for an unconditional surrender to his eventual offer of the "the honors of war:" the officers were to keep their swords, the men their personal effects. Influenced both by his regard for Burgoyne, as well as intelligence of an approaching British relief column, Gates agreed to allow the British general and his army of over five thousand men to march to Boston, the nearest major American port, and take ship home to England with the only proscription that they not bear arms in North America for the remainder of the war. Most importantly, under the terms of the accord, the men were not to be considered prisoners of war. Gates even consented to term the surrender a "convention" rather than a "capitulation." In contemporary European warfare, a convention was a negotiated treaty for a cessation of hostilities not a surrender agreement. Victorious generals would offer these generous terms as a demonstration of respect for an enemy that had conducted itself with honor. That is exactly how Burgoyne's officers interpreted the convention. According to Ensign Thomas Anburey, General Gates was "fully sensible of the mortification attending our reverse of fortune," and he had no wish "to add any circumstance that might aggravate our present calamity." Anburey was pleased that the Americans agreed to uphold "the authorized maxims and practices of war" by behaving with "civil deportment to a captured enemy." Burgoyne's defeated men had every reason to expect that their adversaries would abide by European customs and uphold their end of the bargain.²

² The number of troops who surrendered at Saratoga remains disputed. The British provided two

When Burgoyne's proud troops filed out of their entrenchments to pile their arms, accompanied by the martial strains of the "Grenadiers March," no one on either side could have known that the army would spend the next five and a half years in captivity: longer than any other contingent of British prisoners. By the time their ordeal was over, the soldiers and their civilian followers, who became known as the Convention army, had marched over 1,100 miles, enduring confinement in overcrowded and rotting barracks, jails, and prison ships in eight different states and losing roughly eighty-five percent of their number to disease, desertion, starvation, and fatigue. Theirs is a painful story to tell. At one of the army's bleakest hours, Ensign Anburey took comfort in the belief that "from the cruelty and ill usage they have continually experienced, since they became prisoners," the Convention troops would prove the bravest in the British army, willing to "fight to desperation" to avenge their mistreatment. Few among them would ever get that chance.³

This chapter investigates the revocation of the Convention of Saratoga and the subsequent experience of the Convention army in captivity. I argue that by nullifying the

conflicting returns, one suggesting that 6,350 officers and men surrendered, while the other gives the total as 5,871. In Gates' official return to Congress, he claimed that 5,863 officers and men surrendered of whom 2,522 were British, 2,444 were German, and 897 were Canadian. Under the articles of the Convention, Burgoyne's Canadian auxiliaries were allowed to return home, and thus not included in the Convention army. It seems that neither Gates' return nor the second British return accounted for the sick and wounded prisoners. The most accurate return appears to be the one completed by Burgoyne's deputy Adjutant General Robert Kingston, which puts the total number of surrendered officers and men at 6,350. Of these, 2,442 were healthy British officers and enlisted men, 2,198 were healthy Germans, and 1,100 were Canadians. In addition, there were 12 staff officers and 598 sick and wounded. Subtracting the Canadians, the total number of men actually encompassed by the Convention was 5,250. If we divide the number of staff officers and sick evenly, that would add an additional 305 men to both the British and German contingent. By this calculation, the total number of British soldiers was 2,747 and the total number of Germans was 2,503. I believe this return is the most accurate, and I have used it for the purposes of my calculations throughout this study. George W. Knepper, "The Convention Army, 1777-1783" (Ph.D. diss., University of Michigan, 1954), 12-13, 273. Regrettably, we do not know how many camp followers and children accompanied the army into captivity. At war's end, roughly 800 men, or 15% of those who surrendered under the terms of the Convention remained with the army; Thomas Anburey, *Travels Through the Interior parts of America* (London: William Lane, 1789), 2 vols., 2:2-4.

³ James P. Baxter, ed., *The British Invasion From the North: Digby's Journal of the Campaigns of Generals Carleton and Burgoyne From Canada, 1776-1777* (New York: De Capo Press, 1970), 320; Anburey, *Travels*, 2:438.

compact, Congress openly flouted the norms of the European culture of war that the revolutionary leadership had held sacrosanct since the commencement of hostilities. Unlike prior acts of congressional retaliation, which were aimed at redressing specific examples of prisoner abuse on the part of the British and improving the plight of American prisoners in British hands, Congress's decision to invalidate the Convention was instead an acknowledgement that the rules by which the revolutionaries had conducted the war had changed. The time had come for a new policy: a policy of retribution.

In resolving to suspend the Convention indefinitely, the delegates had not foreseen, nor desired, the absolute destruction of the Convention army. These were not sadists motivated by bloodlust; but they were deeply troubled by the treaty's ramifications. Gates' victory had electrified the revolutionary movement at a moment when it was approaching its nadir, but by agreeing to such generous terms, the general had squandered the revolutionaries' best chance to not only turn the tide of the conflict militarily but also symbolically. Many Americans, aggrieved by British abuses and loyalist insurrections, hoped to make an example of Burgoyne's army. Hewing closely to the norms of "civilized" warfare as they understood them had done the revolutionaries precious little good in the past. To the British, they were still rebels, no matter how decorous their behavior. Unless the British could be persuaded that their actions had severe consequences, the cycle of abuse would never end. Congress had to make a stand.

From the perspective of the Convention prisoners, Congress's motivation for negating the Convention did not matter; the results were the same. By refusing to exchange the prisoners, even when it would have been militarily advantageous, while

simultaneously failing to provide for their support and subsistence, Congress set the Convention army on a march to its demise. Once the decision to suspend the embarkation was made, Congress had little option but to foist the prisoners upon state officials and local communities that were either incapable or unwilling to provide for the men. Time after time, the prisoners exhausted the resources and welcome of the communities that housed them. As the prisoners learned too well, ongoing neglect can be just as devastating as deliberate cruelty. Rather than reassessing its obdurate stance, however, Congress only entrenched further. To parole the men to England or release them through exchange would be to repudiate its hard-line stance, destroying congressional creditability with the majority of Americans, who after years of hearing and reading about British atrocities, thirsted for retribution. By negating the Convention, and relegating the prisoners to indefinite confinement, Congress sent both the British and its constituents a powerful message: Americans would turn the other cheek no longer.⁴

⁴ Although the Convention army remains the best studied contingent of British and allied prisoners during the war, its story has not been properly contextualized within the larger history of prisoner-of-war treatment. By failing to see Congress's decision to nullify the agreement in light of British mistreatment of American prisoners, George Knepper has claimed that "the treatment of British and German troops was, on the whole, relatively generous." William Dabney was even more sanguine about the prisoners' experience. He claimed that "the relation[ship] between the Americans and the British and German Conventioners was an enriching and enlightening experience for both sides." It is hard to imagine what aspect of marching over 1,100 miles through snow and ice from New England to Virginia and back again, only to endure years of captivity in overcrowded, poorly-constructed, and disease-infested barracks, the prisoners found "enriching and enlightening." Martha Dixon's primary interest in the story of the Convention army was to assess the increasing influence of Congress in the management of prisoner affairs after the Convention, and thus she made no effort to analyze their treatment in American custody. In his largely solid study of the Convention prisoners, Richard Sampson was principally interested in the experience of escape, but he also claimed that Congress negated the Convention in order to elicit the formal recognition of the United States from the Court of Great Britain. By claiming this, Sampson failed to appreciate that Congress was under no illusion of receiving such recognition. Treated as a cabal of rebels from the beginning of the conflict, Congress knew that the king would never formally endorse the Convention and that is precisely what the revolutionary leaders wanted. In their eyes, the Convention army was not a political tool with which to leverage international recognition, but instead an ideal object of revenge. Congress had learned well the lessons of the British war effort by 1778 and had witnessed proportional retaliation fail time and again to improve the plight of its prisoners in British hands. Knepper, "The Convention Army," 270; William M. Dabney, *After Saratoga: The Story of the Convention Army* (Albuquerque: University of New Mexico Press, 1954), 79; Dixon, "Divided Authority," 201-243; Richard Sampson, *Escape in America: The British*

"The Continuance of the Troops of the Convention here will be but short": The Convention Army in Cambridge, Massachusetts

Before Congress could receive official confirmation of Gates' victory, rumors of Burgoyne's surrender permeated the American press. Sitting at York in Pennsylvania, because a British army under General Howe had occupied Philadelphia, Congress was abuzz with speculation. Word of Burgoyne's repulse at the second battle of Freeman's Farm had reached the members in early October, but as the month drew to a close, no one had heard from General Gates. Because they had received no official notice, Congressman Henry Laurens lamented that "some people begin to doubt the truth of the accounts" of Burgoyne's defeat. Colonel James Wilkinson, who Gates had tasked with informing Congress of his victory, was in no hurry. He relished being the bearer of good news and took full advantage of the many open tables and bottomless glasses along his route to which the welcome word afforded him. By the time he finally reached York on October 31st, the vague reports of Burgoyne's surrender had already been confirmed. A week earlier, the *Massachusetts Spy* reported that "Gen. Burgoyne had delivered himself and army prisoners of war into the hands of General Gates." The news exhilarated the population of Worcester, many of whom rushed to the common to see "thirteen discharges of cannon" and to drink thirteen toasts to the success of American arms. Camped at White Marsh on the outskirts of Philadelphia, Washington informed his army on the 18th that "G. Burgoyne and his whole Army surrendered prisoners of war." He

Convention Prisoners, 1777-1783 (Wiltshire, UK: Picton Publishing, 1995), xii, 85. For an early narrative of the Conventioners experience that seeks to assess whether or not Congress should have abided by the terms of the Convention, see Charles R. Lindsey, "The Treatment of Burgoyne's Troops under the Convention of Saratoga," *Political Science Quarterly* (1907), vol. 22, 441-459.

hoped that "every heart [would] expand with grateful joy to the supreme disposer of all events who has granted us this signal success." Congress went even further: designating December 18th as a day "for solemn thanksgiving and praise" and ordering "a medal of gold be struck" to be given to General Gates in commemoration of "this great event." The revolutionaries had much to be thankful for—never before had their forces captured an entire army of European regulars.⁵

Americans throughout the continent rejoiced that the proud and pompous Burgoyne was now their prisoner. With Philadelphia, New York, and Newport in British hands, the revolution was teetering on the edge of extinction when the two armies joined battle at Saratoga. Unsurprisingly, word of Gates' conquest exhilarated ardent revolutionaries. Aware from the initial reports that Burgoyne's position was untenable—he was surrounded with his line of retreat cut off—most Americans expected a total victory. In their opinion, Burgoyne deserved no better terms than those offered to the American garrison at Fort Mifflin: unconditional surrender. Even members of Gates' own army who witnessed the surrender thought the Britons were now prisoners of war. Ralph Cross, a soldier under Gates, reported that "the Grand Army of Gen Burgoin [sic] Capitulated [sic] & agreed to bee [sic] all Prisoners of Warr [sic]." One of Cross's superiors, Henry Dearborn recorded that "Mister Burgouyn [sic] with his whole army surrendered themselves as Prisoners of War." He called Gates' victory the "greatest Conquest ever known."⁶

⁵ Henry Laurens to Robert Howe. October 25th, 1777. Frank Moore, ed., *Correspondence of Henry Laurens* (New York: The Zenger Club, 1861), 58; Wilkinson, *Memories*, 1:323-332; *Massachusetts Spy*, October 23rd, 1777; Kirkwood Orderly Book. Peter Force Papers. Series 7E. Shelf No. 19, 061. Reel 16, Item 67. Library of Congress; JCC, 9:854-55, 861-62.

⁶ "The Journal of Ralph Cross of Newburyport," in *Historical Magazine: And Notes and Queries Concerning the Antiquities, History, and Biography of America Vol. VII, Second Series* (Morrisania, New

Although Congress initially shared Dearborn's enthusiasm, when Wilkinson's copy of the articles of Convention began to circulate, the mood in the room quickly soured. Wilkinson remembered that several congressmen began to "derogate from Gen. Gates's triumph." As Gates' representative, Wilkinson was subjected to a barrage of caustic questions. How had Gates allowed Burgoyne to talk himself out of unconditional surrender? Would it not have been preferable to allow Burgoyne to retreat to Canada where his battered army could do little harm? Wilkinson did his best to defend his general, but the tenor of the conversation was decidedly critical of Gates and his convention.⁷

The congressional debate was fruitless; under the terms of the Convention, Burgoyne and his army were not prisoners. Although they could not serve in America unless exchanged, nothing in the agreement prohibited the troops' service elsewhere. The return of the troops to Britain under the articles of the Convention of Saratoga would free regiments tasked with garrison duty in Europe for the fight in America. Rather than exchanging the men for American prisoners suffering in New York and Philadelphia, Gates had simply let them go: ensuring an army of fresh British troops would arrive on American shores in the spring. Unwilling to sacrifice the popular enthusiasm for the victory, Congress publically praised Gates, but many members remained privately skeptical of his motivations.⁸

To some Americans, Gates' generosity verged on treachery. The Reverend Samuel Cooper, a fiery Congressionalist minister in Boston, confided in John Adams that

York: Henry B. Dawson, 1870), 10; Lloyd Brown and Howard Peckham, eds., *Revolutionary War Journals of Henry Dearborn, 1775-1783* (New York, 1971), 111.

⁷ Wilkinson, *Memories*, 1:332; Dabney, *After Saratoga*, 15-16.

⁸ Sampson, *Escape in America*, 43-44.

his "Joy is damp'd by the Concessions G[ates] has made, considering how totally Burgoyne was in our Power." Cooper attributed the terms of "this unaccountable Treaty," to Gates' "Infatuation" with Burgoyne and his old employers, "or something worse." Cooper's critique was one that Gates should have seen coming. The general's admiration for Burgoyne was well known. In a public and widely circulated letter to the British general before the capitulation, Gates had complimented "the famous Lieutenant-general Burgoyne, in whom the fine gentleman is united with the soldier and the scholar." Cooper, like many zealous revolutionaries, feared that perhaps Gates, who after all was an Englishman by birth, had traded his adopted country for British favor. Even if he was not guilty of treason, it was easy to imagine his prior connections clouding his judgment. The newly elected president of Congress, Henry Laurens, thought Gates had been "a little captivated" by Burgoyne's flattery and "too polite" in his terms. Benedict Arnold, who bore little love for his former commander, apparently referred to Gates as "the greatest paltroon [sic] in the world," for his unwillingness to capitalize on Burgoyne's misfortune.⁹

Washington shared his colleagues' dismay over the terms of Burgoyne's capitulation. The Commander-in-Chief could not "help complaining, most bitterly" to Richard Henry Lee "that this event will not equal our expectations; and that, without great precaution, and very delicate management, we shall have all these men, if not the

⁹ Samuel Cooper to John Adams. Boston, October 22nd, 1777. *Adams Papers*; Gates to Burgoyne. September 2nd, 1777. *Pennsylvania Evening Post*, September 19th, 1777; Laurens quoted in David Duncan Wallace, *The Life of Henry Laurens: With a Sketch of the Life of Lieutenant-Colonel John Laurens* (New York: G.P. Putnam's Sons, 1915), 247. Upon receiving confirmation of the terms of the Convention of Saratoga, former Congressman John Rutledge of South Carolina wrote Henry Laurens, "I dislike the terms of the Convention much." John Rutledge to Henry Laurens. Charles Town. November 7th, 1777. David R. Chestnutt, C. James Taylor, Peggy J. Clark, and David Fischer, eds., *The Papers of Henry Laurens* (Columbia: University of South Carolina Press, 1968-2002), 16 vols., 12:36, hereafter cited as *PHL*; Lafayette to Henry Laurens. Albany, NY. February 19th, 1778. See also, Martin, *Benedict Arnold*, 406.

officers, opposed to us in the spring.” Experienced with British chicanery, Washington imagined that the British ministry might “justify, a breach of the Covenant on their part” on the grounds that “that no faith is to be held with Rebels.” Washington was not alone in his concerns. One of his aides, Colonel Samuel Webb, noted the mood of the army upon learning of Gates' terms: “We have this day the articles of treaty between Lt. Genl. Burgoyne and Major Genl. Gates, & ‘tis the general opinion that Gates has given him much better terms than he need have done, which causes much uneasiness.”¹⁰

Revolutionary Americans found the Convention particularly galling because of the methods Burgoyne had used in his invasion of New York. Rev. Cooper decried the terms as “large and generous considering...the manner in which they have carried on the War.” Cooper's claim was not mere republican bombast. In July 1777, Burgoyne had promised the American people that he would bring “the vengeance of the state” against any one who opposed him by spreading “devastation, famine, and every concomitant horror.” He kept his word. British forces, and their loyalist and Native American allies, felt little compunction at pillaging, plundering, and burning rebel property on their march southward. Colonel Wilkinson claimed that “the hostile Indians” who “were let loose by the British commander” were guilty of “committing murders and spreading terror over the country.” Although Burgoyne had not ordered nor condoned willful murder, he had done little to restrain his loyalist and Native American auxiliaries. When a scouting party of British-allied Native warriors scalped and murdered Jane McCrea, a young loyalist woman who was engaged to be married to one of Burgoyne's officers, Burgoyne issued a “very severe” reproach but was dissuaded from punishing the culprits for fear of losing

¹⁰ George Washington to Richard Henry Lee, October 28th, 1777 Philadelphia County. *PGW; Correspondence and Journals of Samuel Blachley Webb*, Worthington C. Ford, ed. (New York: Wickersham Press, 1893), 3 vols., 1:232.

his allies. This incident instantly became a propaganda sensation for the revolutionary cause. The American press painted Jane McCrea as the virtuous victim of British depravity. So enraged by stories of "unmanly acts of murder upon women & Children," Henry Laurens claimed that had he been in Burgoyne's position, he would "have Surrendered my Self to a pistol Ball in preference to becoming the prisoner of those people whom I had reviled by the Epithet of Rebels."¹¹

As exaggerated accounts of her murder proliferated, American animosity soared. Notwithstanding the common American practice of turning over loyalist prisoners to American-allied Native warriors to be "treated according to their custom," the revolutionaries denounced Burgoyne as "the chief director of the King of Great Britain's band of thieves, robbers [*sic*], cut throats, scalpers, and murders." In the opinion of one concerned citizen, Burgoyne was a latter-day Duke of Cumberland, willing to "put to death in cold blood, without form of trial" all who opposed him. Upon reviewing the terms of the Convention, the New York Council of Safety petitioned Congress demanding that Burgoyne's army be kept as "valuable Hostages for the future good Behavior of the Enemy." Because the British had evinced "barbarian Inhumanity" by violating "those Rules according to which civilized nations usually prosecute Wars," Congress had a duty to its citizens, who were "already ruined by their Ravages," to "retard the Embarkation" of the troops. In the opinion of the councilmen, from the beginning of the war the British armed forces had consistently violated every custom of

¹¹Rev. Samuel Cooper to Benjamin Franklin. Boston, MA. March 25th, 1777. Leonard W. Labaree, ed., *The Papers of Benjamin Franklin* (New Haven: Yale University Press, 1959-), 40 vols., 25:104; General Burgoyne's Proclamation, issued at Fort Ticonderoga, July 2nd, 1777. *Pennsylvania Evening Post*, August 21st, 1777; Wilkinson, *Memories*, 1:200; S. Sydney Bradford, ed., "Lord Francis Napier's Journal of the Burgoyne Campaign," *Maryland Historical Magazine*, LVII (1962), 306-308; James Lunt, *John Burgoyne of Saratoga* (New York: Harcourt Brace Jovanovich, 1975), 176; Henry Laurens to the Marquis de Lafayette. October 23rd, 1777. York, PA. *PHL*, 11:581.

"civilized" warfare while assuming that the Americans would uphold them. Enough was enough. A Massachusetts columnist captured the prevailing opinion when he declared: "The blood of our brethren crieth from the ground for vengeance." With a sizable British army in American custody for the first time, the long awaited opportunity for retribution on a grand scale had at last arrived. As the New York Council of Safety phrased it: "we have long borne with their Inhumanity—Our Threats of Retaliation have hitherto been considered as Safe Words—it is Time to give them Efficacy—the Juncture is favorable. A brave People should dare to execute what they have thought it just to Threaten."¹²

Fear of retaliation was the last thing on the minds of Burgoyne's ragged and weary men as they trudged toward Boston; the troops were amazed by the generous terms of the accord and by the kind treatment they received from their erstwhile foes. Gates was adamant that from the moment they laid down their arms, the troops would be treated with civility and respect. Under the articles of the Convention, the surrendered soldiers' personal baggage could not be searched and the Americans were responsible for provisioning them, "at the same rate of rations as the troops" of Gates' own army until British transports arrived to carry them to Europe. Their experience could not have been more different from that of the American garrison of Fort Washington. No mention of insults, taunts, or robberies in the aftermath of the surrender can be found in the journals

¹² Max Mintz, *The Generals of Saratoga: John Burgoyne & Horatio Gates* (New Haven: Yale University Press, 1990), 182; *New-England Chronicle*, October 23rd, 1777. A similar incident was reported by Ebenezer Wild. On September 21st, 1777, he recorded that "our Indian Scout Brought In Tow [two] Tories that have Panted [Painted] themselves and passed for Savages [,] after our Indians had Brought them to the Genl he Examine [*sic*] them and Gave them up to the Marsey [Mercy] of the Indians." Ebenezer Wild Diaries, Film 713, DLAR; *Connecticut Courant*, September 8th, 1777; *Pennsylvania Evening Post*, September 4th, 1777. The *New-England Chronicle* printed a letter from "an Officer at Albany" that reflected the common American understanding of Burgoyne's intentions: "I think there are small Hopes for any of us to surrender, for while they have a Number of Savages with them, there will be no Quarters given. Burgoyne intimates we need expect no Quarters." *New-England Chronicle*, August, 14th, 1777; Council of Safety of New York at Marble Town to John Hancock, President of Congress. November 5th, 1777. PCC, Roll 81, Item 67, 2:87; *New-England Chronicle*, June 24th, 1777; Council of Safety of New York to John Hancock. November 5th, 1777. PCC, Roll 81, Item 67, 2:87.

kept by British and German soldiers of the Convention army. On the contrary, they abound with appreciation. British Lieutenant William Digby was so impressed by the Americans' "decent behaviour" that he felt they "merited the utmost approbation and praise." The Germans were even more complimentary of their captors. According to one officer from the Specht regiment, the Americans "competed with each other to show us all possible niceties." While the captive officers dined with their American counterparts, the ravenous enlisted men enjoyed "good wheat flour and fresh meat" from American supplies, while their wounded countrymen received "tea, sugar, chocolate and wine" to ease their suffering. One of Burgoyne's German surgeons, who had been captured prior to the Convention, was so impressed with his treatment that he admonished his countrymen to "learn to treat your friends as well as the inhabitants of New England treat their enemies!" In her postwar history, Mercy Otis Warren summarized the initial American response to the Convention troops: "They were every where treated with such humanity, and even delicacy, that they were overwhelmed with astonishment and gratitude. Not one insult was offered, not an opprobrious reflection cast." The captured men could take comfort that though defeated, they were entitled to all the privileges due to an army that had acquitted itself honorably.¹³

Despite Gates' best efforts to facilitate the march of the Convention troops, Boston, and the prospect of a speedy passage home, lay at the end of an arduous three-

¹³ 5th Article of the Convention of Saratoga. Knepper, "The Convention Army," 10; Baxter ed., *The British Invasion From the North*, 320; Helga Doblin, trans., *The Specht Journal: A Military Journal of the Burgoyne Campaign*, Mary C. Lynn, ed., (New York: Greenwood Press, 1995), 102-3; Helga Doblin, trans., *An Eyewitness Account of the American Revolution, and New England Life: The Journal of J.F. Wasmus, German Company Surgeon, 1776-1783*, Marcy C. Lynn, ed., (New York: Greenwood Press, 1990), 83; Mercy Otis Warren, *History of the Rise, Progress and Termination of the American Revolution* (Boston: Manning and Loring, 1805), 3 vols., 2:41. See also, Daniel Krebs, "Ritual Performance: Surrender during the American War of Independence," in Holger Afflerbach and Hew Strachan, eds., *How Fighting Ends: A History of Surrender* (Oxford: Oxford University Press, 2012).

week trek of over two hundred miles across the Green Mountains. The men were exhausted. They had endured a grueling summer campaign, cutting their way through the New York forests from Canada while constantly pestered by American forces, and at times more vexing, American mosquitoes. Because revolutionary privateers had intercepted the army's 1777 clothing issue, their threadbare uniforms were literally disintegrating. To add to their distress, the weather turned colder as soon as they began their march. One German officer reported that the "the weather at night" was "so disagreeable" that they experienced "not only rain but also snow and hail." Another complained that "our wet clothes froze as stiff as iron." When the column of troops reached the Green Mountains, "the roads across them were almost impassible." Ensign Anburey described the bedlam that ensued: "carts breaking down, others sticking fast, some oversetting, horses tumbling with their loads of baggage, men cursing, women shrieking, and children squalling!" In the laconic understatement of a German officer, "we made a very troublesome march."¹⁴

The trip was not nearly so arduous for General Burgoyne and his senior officers. Gates, and his subordinate General Philip Schuyler, delighted in showing their European adversaries every courtesy and comfort. The Baroness Frederika von Riedesel, the wife of the commander of Burgoyne's German allies, observed that Gates and Burgoyne "were on very friendly terms" with one another. Schuyler invited Burgoyne and his entourage to join him in Albany where they were welcomed "not as enemies, but in the friendliest manner possible." Travelling by coach, Burgoyne and his staff stopped frequently to sate

¹⁴ Earl J. Coates and James L. Kochan, *Don Troiani's Soldiers in America, 1754-1865* (Mechanicsburg, PA: Stackpole Books, 1998), 35; Doblin, trans., *The Specht Journal*, 103; William Leete Stone, trans., *Letters of Brunswick and Hessian Officers During the American Revolution* (Albany, NY: Joel Munsell's Sons, 1891), 146; Anburey, *Travels*, 2:38-39; Doblin, trans., *The Specht Journal*, 103. Twelve members of the Convention army perished on the march to Boston. Sampson, *Escape*, 49.

the curiosity of American onlookers and to enjoy their hospitality. While the enlisted men and junior officers regularly bivouacked in the open, exposed to the elements, Burgoyne, Reidesel, and the other senior officers and their families were housed by elite American families along their route or in local inns and taverns. Closely mimicking European custom, Burgoyne and his staff were feted and feasted all the way to Boston.¹⁵

When news of the impending arrival of Burgoyne's army reached Boston, the celebratory atmosphere soon subsided. The prospect of providing provisions and quarters for five thousand ravenous and bone-chilled men plus their dependents sent the people of Boston into a frenzy. Where would they obtain flour, firewood, and beef in sufficient quantity at such a time of year? With a substantial British army and fleet ensconced at Newport, trade into and out of Boston was severely curtailed. Scarcity combined with the escalating depreciation of Continental currency had driven the price of household necessities through the roof. Flour was in particularly short supply. To compound matters, Boston had yet to recover from Washington's protracted siege of the city. The surrounding area had been completely deforested by Washington's troops, forcing local inhabitants to depend on spotty and insufficient imports of fuel from Maine. Even before the troops arrived in town the price of wood was fourteen dollars per cord. Hannah Winthrop, a resident of Cambridge, estimated that the Convention army would consume more than 250 cords per week. She wondered rhetorically to Mercy Otis Warren: "Is there not a degree of unkindness in loading poor Cambridge, almost ruined before this great army seemed to be let loose upon us?" The President of the Massachusetts Council, Jeremiah Powell, echoed her sentiments when he informed John Hancock that "it will be

¹⁵ Marvin L. Brown, trans., *Baroness von Riedesel and the American Revolution: Journal and Correspondence of a Tour of Duty, 1776-1783* (Chapel Hill: UNC Press, 1965), 64, 65; Stone, ed., *Memories, and Letters*, 1:214-6.

very distressing to us, under our present Circumstances, as well as dangerous to the United States to have those Troops Continued here for any time." He worried that the presence of such a large body of enemy troops would serve "to poison the minds of our People and to divide them." Powell hoped that Congress would use its "Authority & Influence" to see that the troops were dispatched to England "with all possible Expedition."¹⁶

Fortunately for the government of Massachusetts, the Convention troops were at least nominally wards of the Continental army, and thus their immediate direction fell to the military commander of the Eastern District: Major General William Heath. More farmer than soldier, the Massachusetts native had failed to capture British-occupied Fort Independence in January 1777, staining his military reputation. Viewed by Washington as more suited for an administrative rather than a combat role, Heath was transferred to Boston and out of harm's way. Rising to the command of the Eastern Department when General Artemas Ward retired in March 1777, Heath was utterly unprepared for the myriad challenges before him. Gates had forwarded enough provisions to get the Conventioners to Boston, but once arrived, they were Heath's problem. The general bemoaned to Washington the "wide and difficult Field" he faced: "to provide Quarters, provisions, Fuel &c. for Five or Six Thousand Men will be no small Task." Although he was determined to "treat them with politeness & humanity and on the other with precaution and strict Order," Heath begged Washington "to facilitate their removal as

¹⁶ General Heath informed Washington in late August that "the scarcity of provisions here is such, especially of Bread, that it is with difficulty that the Inhabitants can obtain a supply. Almost every article of the necessities of Life is either really or artificially scarce and nothing plenty except money." Heath to Washington. August 30th, 1777. Boston, MA. Elias Boudinot Papers. MCC 721. Box 1. LOC; Heath to Washington. October 25th, 1777. *PGW*; Winthrop to Warren. Cambridge MA. November 11th, 1777. Elizabeth F. Ellet, *The Women of the American Revolution* (New York: Baker and Scribner, 1849), 3 vols., 1:98; Jeremiah Powell to Hancock. October 25th, 1777. Boston. *PCC*, Item 65, 1:269.

soon as possible, as their continuance for any considerable time will greatly distress the Inhabitants both as to provisions and Fuel." In the meantime, he appealed to the civilian authorities in the Massachusetts Assembly for whatever assistance they could provide.¹⁷

Inclined to help, but loathe to accept any added responsibility, the Assembly, in characteristic republican form, appointed a committee "to consider what Provision etc. is necessary to be made for the Reception of the Prisoners." The committee concluded that Burgoyne's army could not be properly subsisted in Boston. The city simply lacked the necessary infrastructure to house and feed so many people. Aware that the fourth article of the Convention required the men to be quartered "in, near, or as convenient as possible to Boston," the Assembly could not disperse the troops throughout the countryside to work for their subsistence, as was the standard procedure for prisoners of war at the time. Compromising, the Assembly allowed Heath to house the prisoners in barracks on Prospect and Winter hills outside of town. These barracks had the added benefit of being sufficiently isolated from the bulk of the city's population to discourage fraternization. Only the senior officers, who presumably were less likely to escape, were to be quartered in Cambridge. Even they were debarred from visiting Boston. Isolated on their hilltop barracks, the conquered troops could be more easily provisioned and supervised, and Boston would be spared the invariable disorder that would result from soldiers roaming the streets at will. To enforce their orders, the assemblymen authorized General Heath, who possessed only a skeleton garrison of Continentals, to raise "one thousand men, including officers...from such parts of the militia of this State" to serve as guards under Heath's direct command. Heath requested 1,200, but even finding a thousand men to do

¹⁷ The government of Massachusetts, known as the Massachusetts Assembly, was composed of the Council and the House of Representatives. Without a governor, the Council served as the executive of the state. Heath to Washington. October 25th, 1777. *PGW*.

guard duty proved difficult because the people of Boston were in no mood to be cooperative.¹⁸

The arrival in their midst of throngs of filthy and malodorous enemy soldiers—men who the revolutionary press had portrayed as wanton murderers, plunderers, and rapists—incensed the city's residents. To the wary whigs of Boston, these men were not only godless mercenaries who had pillaged and plagued the frontiers of New England, as vectors of the twin contagions of smallpox and royalism, they were a direct threat to the health, economy, and political stability of the Boston-area. Winthrop described the November 7th arrival of Burgoyne's German troops at Winter Hill, about a mile and a half outside of Cambridge, as "truly astonishing." She could not believe that "creation produced such a sordid set of creatures in human figure—poor, dirty, emaciated men" accompanied by "great numbers of women, who seemed to be beasts of burden...barefoot, clothed in dirty rags." The stench must have been arresting. According to Hannah Winthrop, "effluvia filled the air while they were passing." Only their constant smoking allayed her fears of being contaminated. At least the Germans looked like prisoners and objects of pity. The British were proudly "prancing and patrolling in every corner of the town, ornamented with their glittering side-arms—weapons of destruction," even insisting that "we ought not to look on them as Prisoners." Winthrop feared that Burgoyne's officers, who lived in "the most Luxurious manner possible, rioting on the Fat of the Land, Stalking at Large with the Self-importance of Lords of the Soil," would prove a corrupting influence on the city's population. Her

¹⁸ Samuel F. Batchelder, *Bits of Cambridge History* (Cambridge: Harvard University Press, 1930), 9-10; Articles of Convention. Knepper, "The Convention Army," 271-2; "Resolve for making provision for the Troops under Gen. Burgoyne, and assigning them certain limits," October 25th, 1777. *Resolves of the General Assembly of the State of Massachusetts Bay*, Fourth Sitting (Boston: John Gill, 1777), 39, 40.

concerns must have been commonplace. Roger Lamb, a corporal in the Convention army, remembered "the general unwillingness of the people [of Cambridge] to administer the least civility" to the troops. In his opinion, "the people of New England appeared to indulge a deadly hatred against the British prisoners." A far cry from the kindness and civility they had received from Gates and his officers, the Convention troops encountered only antipathy from the Bostonians who, like Winthrop, believed the Convention army would leave only "insults, famine, and a train of evils" in their wake. Conventioners and Bostonians alike agreed that the transport ships that would carry the soldiers to England could not arrive soon enough.¹⁹

The ships were nowhere to be seen when the Convention army marched into the dilapidated ruins of barracks that dotted the barren and exposed hills outside of Boston. These makeshift shelters had been constructed in the summer of 1775 to house Washington's troops, but no one had bothered to see to their upkeep after the army departed for New York in spring 1776. Briefly used to house smallpox victims who were beyond hope of recovery, the bulk of the buildings were now entirely unsuitable for human habitation. As one of Burgoyne's Brunswick grenadiers, Johann Bense, described, "the barracks were only put together with boards. The gables were open; there were no windows but just open holes. We had neither wood nor straw to lie on...in short, we were the most wretched people." Each "small, miserable, open hut" housed "thirty, or forty persons, men, women and children...indiscriminately crowded together" according

¹⁹ Winthrop to Warren. November 11th, 1777. Cambridge, MA. Ellet, *The Women of the American Revolution*, 1:97; Hannah Winthrop to Mercy Warren. February 4th, 1778. *Warren-Adams Letters: Being Chiefly a Correspondence Among John Adams, Samuel Adams, and James Warren 1743-1814* (Boston: Massachusetts Historical Society, 1925), 2:4-5; Don N. Hagist, ed., *A British Soldier's Story: Roger Lamb's Narrative of the American Revolution* (Baraboo, WI: Ballindalloch Press, 2004), 56; Winthrop to Warren. November 11th, 1777. Cambridge MA. Ellet, *The Women of the American Revolution*, 1:97

to Corporal Lamb. All endured "the chill peltings" of the November rain and snow "which the wind drifted" into the open barracks. Gnawing hunger occasioned by food shortages compounded their predicament. In late November, Heath's adjutant reported that the troops on Winter Hill were "entirely destitute of vegetables, Poultry, Roots &c." The results were predictable: disease and malnutrition began to take a toll on the troops. Grenadier Bense noted that "many died of scurvy" during their confinement at Winter Hill. At least the soldiers could take solace in the knowledge that their confinement was temporary. Surely, the transports would arrive before the Massachusetts' winter made the army's embarkation impracticable.²⁰

Barracks' life was little better for Burgoyne's officers. Ensign Anburey was horrified by his quarters. In his opinion they were "in the worst condition imaginable for the reception of troops, being so much out of repair." According to one of Anburey's German colleagues, "the barracks are without foundations, and built of boards, through which the rain and snow penetrate from all sides...our people have to endure a great deal of hardship while in them, as they afford not the least protection against the cold." The officers, who were accustomed to a certain level of comfort and privacy even while on active duty, were disgusted to learn that they would live six to a room "not twelve feet square" inside the barracks. Sharing common bunks that a German officer characterized as "holes in which it is impossible to turn one's self" at night, the men struggled to keep warm. With threadbare blankets and no wood for the fireplaces, shared body heat alone prevented the onset of hypothermia. The colonel commanding the American guards,

²⁰ Sampson, *Escape*, 56; Helga B. Doblin and Mary C. Lynn, trans., "A Brunswick Grenadier with Burgoyne: The Journal of Johann Bense, 1776-1783," *New York History*, vol. 66, no. 4 (October, 1985), 420-444, 436; Hagist, *A British Soldier's Story*, 55; Depy. Adj. Genl. J. Keith to the Massachusetts Council, November 22nd, 1777. Boston, MA. Heath Papers. MHS. Vol. 7, p. 131; Doblin and Lynn, trans., "A Brunswick Grenadier," 436.

William Raymond Lee, informed Heath that he discovered "Field Officers & some Others walking by their Barracks to keep themselves from perishing with cold; not one stick of Wood to put into the Fire." Lee was of the opinion that "if some other method cannot be found to supply them they must either perish or burn all the Publick buildings." One forlorn German officer summarized the prevailing mood in the barracks: "we are now living in misery."²¹

The officers had every right to grumble. Heath was well aware that under the seventh article of the Convention, they were entitled to be "quartered according to rank." As the officer in command, it was Heath's responsibility to see to the comfort and entertainment of the captured officers and the health and provision of the enlisted men. When their quarters and provisions failed to live up to their expectations, Heath became the object of the officers' indignation. Attempting to ameliorate their plight, he dashed off a frenetic series of letters to the Massachusetts Council, the governors of neighboring states, Congress, and General Washington: all no avail. Even the Continental Commissary General, Joseph Trumbull, refused to supply the troops with flour without a direct order from Congress, which he knew would not be forthcoming. Incensed by the terms of the Convention, Congress was not about to share valuable provisions, which were so badly needed by its own soldiers, with an enemy army on the verge of embarkation.

The people of Cambridge proved equally obdurate. Landlords banded together to refuse housing to Burgoyne's senior officers unless the men paid ruinous rates, well

²¹ Anburey, *Travels*, 2:59; Stone, trans., *Letters of Brunswick and Hessian Officers*, 154; Anburey, *Travels*, 2:59; Col. William Raymond Lee to Heath. Cambridge, MA. November 1st, 1777. Thomas Amory Lee, *Colonel William Raymond Lee of the Revolution* (Boston: Essex Institute, 1917), 15; Stone, trans., *Letters of Brunswick and Hessian Officers*, 153.

beyond the means of all but Burgoyne himself. From their perspective, they had not been party to the negotiations between Gates and Burgoyne and therefore had no qualms about profiting from them. Unsurprisingly, the city's merchants were also keen to exploit the captive consumers. Prices soared. Anburey recorded that "every species of provisions was very dear." He regularly traversed over a mile in the snow to procure enough milk for his breakfast. This was hardly the lap of luxury that Hannah Winthrop had feared would erode the virtuous republican spirit of Boston.²²

Witnessing his army's distress, Burgoyne fumed. Gates had led him to expect that Bostonians would accord his army the respect due to honorable foes. He could not sit idly by and submit to such indignities, which not only sullied the royal cause but also his personal honor. Upon inspecting the officers' barracks, and noting that "the quarters allotted to them would be held unfit for gentlemen in their situation in any part of the world," Burgoyne informed Heath that he and his army believed "that the Convention [was] infringed in several circumstances." He was aghast that neither Heath nor the members of the Massachusetts Council were willing to impress private property for the officers' use, as was the custom in European conflicts. Not fully grasping the limitations of republican government, the British general suspected that their intransigence stemmed from a sinister plan to break the Convention and consign his army to indefinite captivity.

²² Knepper, "The Convention Army," 271. For examples of Heath's pleas for assistance see Heath to the President of the Massachusetts Council, November 1st, 1777, Heath to Governor Jonathan Trumbull, November 2nd, 1777, Heath to President Henry Laurens, November 19th, 1777. Heath Papers. MHS. Vol. 7, pgs. 23, 20, 109. See also, Heath to Washington, November 23rd, 1777. *PGW*; Joseph Trumbull to Heath, November 7th, 1777. Heath Papers. MHS. Vol. 7, p. 44; Knepper, "The Convention Army," 39-40; Anburey, *Travels*, 2:60.

In protest, Burgoyne instructed his officers to refuse signing their paroles until their grievances were redressed.²³

In his public letters to Burgoyne, Heath denied any infraction of the Convention, but privately he worried that his inability to properly quarter the troops might besmirch the "Honor and Dignity of Congress and of the United States." He sought guidance from Congress, reminding President Laurens that the Convention was "the first made by these rising States which will be nicely review'd by all the polite States in Europe, and the World." Heath knew that according to Vattel, "all promises made to an enemy in the course of a war are obligatory." If he could not enforce the terms of the Convention, the reputation of the United States would suffer, as would their quest for European allies. Heath needed money, or at least direct orders from Congress granting him permission to bypass the Council and requisition the supplies and buildings he so desperately needed. While awaiting instructions, all the general could do was assure Burgoyne that "no Endeavors of mine shall be wanting to fulfill the Convention."²⁴

Heath's best efforts were simply not good enough. Congress had saddled him with the thankless task of upholding Gates' agreement without the funds, manpower, or authority to do so. The people of Boston had made it abundantly clear that they either wanted nothing to do with the Convention troops or intended to profit from their distress, and the Massachusetts Council had refused to deviate from the desires of its constituents. In a desperate letter to the Council, Heath exclaimed: "Every principle of interest and policy calls for our attention to the fulfillment of the Convention." But no one listened.

²³ Burgoyne to Heath. November 10th, 1777. Cambridge, MA. *The Parliamentary Register*, 12: Appendix, 4.

²⁴ Heath to Laurens. November 27th, 1777. Boston, MA. Heath Papers. MHS. Vol. 7, p.155; Vattel, *The Law of Nations*, Book III; Heath to Burgoyne. November 23rd, 1777. Boston, MA. Heath Papers. MHS. Vol. 7, p.137.

Heath had done everything in his limited purview to prevent any infraction of the Convention that might reflect poorly on the honor of his country and person, but without a sizeable influx of capital, all was for naught. On November 23rd, an exasperated Heath confessed to Washington that he was "not a little embarrassed in obtaining Quarters for the Officers" and "much embarrassed in the Commissary's Department." Determined to play the part of the professional officer in the European mold, Heath could not help but take this failure personally.²⁵

As the weeks passed, and the oft-promised support failed to materialize, both Heath and his captive guests anxiously awaited the only viable solution to their problems: the embarkation of the troops for Britain. Although sailing to Boston so late in the year was precarious at best, and Congress had refused to change the departure point to the more easily accessible British-occupied Newport, both parties held out hope that the transports would arrive before the new year. As far as Heath was concerned, the sooner the Conventioners departed the better. He informed Laurens that they were consuming nearly 20,000 dollars of provisions and fuel a week just to maintain basic subsistence, and they were deserting in droves. Because Congress had failed to provide him with a suitable supply of sufficiently-trained guards, Heath could do little to stem the tide. By Christmas, the situation had grown untenable. Heath reported that "my situation [is] truly disagreeable." Word of the arrival of the British transport ships at Newport lifted his spirits however. As he told Laurens, with any luck, "the Continuance of the Troops of

²⁵ Heath to the Council of Massachusetts. December 12th, 1777. Heath Papers. MHS. Vol. 7, p. 265; Heath to Washington. November 23rd, 1777. *PGW*.

the Convention here will be but short." Regrettably for Burgoyne's ill-fated army, Congress had other plans.²⁶

"An act never excusable": Congressional Retaliation and the Nullification of the Convention of Saratoga

When Burgoyne sat down at his rented desk in a Cambridge tavern to apprise his former colleague turned capturer, Horatio Gates, of his army's predicament, he could never have imagined the ramifications of his prose. In what General Heath would later call "a very serious entanglement," Burgoyne complained of the "very unexpected treatment" he and his army had received from the people of Cambridge. While acquitting General Heath and his officers of any wrongdoing, Burgoyne alleged that the Massachusetts Council's inability, or unwillingness, to provide adequate quarters for his soldiers constituted a violation of the Convention. As he informed Gates, "the public faith is broke; & we are the immediate sufferers." Gates did not dispute his old colleague's critique. General John Glover, the American officer who had overseen the march of the Convention troops to Boston, had already informed him of the housing crisis. Gates was mortified. The two men had pledged their word of honor as gentlemen to uphold all of the articles of the accord. Gates had no proof of any violation on Burgoyne's part, and the evidence of American infractions was voluminous. But Gates

²⁶ Knepper, "The Convention Army," 53, 197; Heath to Laurens. January 5th, 1778. Boston, MA. Heath Papers. MHS. Vol. 8, p. 36.

was no longer in charge of the army's fate. All the "Hero of Saratoga" could do was forward Burgoyne's concerns to Congress.²⁷

Far from serving its intended purpose of improving his army's plight, Burgoyne's remonstrance convinced President Laurens that the British general intended to violate the Convention himself. He reasoned that by alleging an American breach of faith, Burgoyne might justify repudiating the agreement as soon as he and his army were safely aboard British ships. Laurens had already suspected that Burgoyne had not been entirely straightforward in his dealings with Gates. A committee of Congress had reported in late November that Burgoyne had turned over an insufficient quantity of arms and military stores. What had happened to the regimental flags and the army's pay chest? Why had these not been relinquished as well? In the opinion of Congress, "the whole return seems very inadequate to a well appointed army." In the committee's estimation, the British troops likely destroyed much of their arms and ammunition and secreted away their currency and colors prior to their march to Boston. Given this apparent disingenuous behavior, Laurens could not believe Burgoyne's audacity in insinuating that Congress had violated the Convention. Fulminating, the president advised Heath that "it will be impossible to part with [Burgoyne] before an eclarcissement is had on this important charge." Congress had previously resolved that the investigation would in no way delay the embarkation of the troops, but in the aftermath of Burgoyne's letter to Gates, Laurens had no intention of allowing the general to depart until he retracted his allegation and

²⁷*Memoirs of Major General William Heath... by Himself* (Boston: I. Thomas and E.T. Andrews, 1798), 145; Burgoyne to Gates. November 14th, 1777. Cambridge, MA. *PCC*, Item 57, page 34; Gates to Laurens. December 3rd, 1777. Albany, NY. *PHL*, 12:126-128.

allowed Heath to conduct a full accounting of the army's strength and remaining military stores.²⁸

Although he lacked substantive evidence, there was some truth to Laurens' suspicions. At the time of the Convention, Burgoyne had assured Gates that he had deliberately left his regimental flags in Canada and thus could not surrender them. Gates had accepted Burgoyne's word of honor as a gentleman and had pursued the issue no further. Despite Burgoyne's protestations to the contrary, the army had in fact marched south with its colors, and the British general had had no intention of giving them up. Surrendering the flags that his men had carried throughout the campaign would have destroyed the morale of his army and obviated his claim that his troops were not in fact prisoners. What happened to the flags, however, is not entirely clear. Once the Convention was agreed upon, Burgoyne's German troops burned their flagstaffs but saved their colors by sewing them into Baroness von Riedesel's mattress. These "badges of honor" were later smuggled into New York and eventually returned to the regiments stationed in Canada. One bold British officer was so determined to preserve his regiment's colors that he risked carrying them throughout his captivity in his personal baggage. When he later presented them to the king, his bravery was rewarded with a colonel's commission. As for the other British flags, presumably they were either similarly preserved or at the very least destroyed. None of Burgoyne's colors were surrendered as trophies of war to be hung on the walls of Congress.²⁹

Notwithstanding Burgoyne's duplicity concerning the flags, Congress's other critiques were unsubstantiated. In his letter to Laurens, Gates assured the president that

²⁸ *JCC*, 9:949; Knepper, "The Convention Army," 62; Laurens to Heath, December 23rd, 1777, York Town, PA. *LMCC*, 2:596; *JCC*, 9:950.

²⁹ Brown, trans., *Baroness von Riedesel*, 72-73; Knepper, "The Convention Army," 67.

he possessed no evidence "to justify our Charge of their having violated the Convention." If there were fewer muskets and bayonets than might be expected for such a large army, the only culprits were "Our own Men" who augmented their paltry supply from the pile of weapons the Britons left behind. As for the money and medical supplies, Burgoyne had exhausted both prior to the Convention. Gates did admit that he should have stipulated that the troops surrender their cartridge pouches, but he had not included this proviso in the terms of the Convention and to do so now would constitute a severe breach of faith. Given his knowledge of Burgoyne's actions, Gates was unwilling to placate the president by adding his voice to the growing number of revolutionaries calling for a suspension of the compact. This was not the answer that Laurens had hoped for.³⁰

In spite of the general's objections, Laurens was undeterred. Even if Burgoyne had not directly infringed the Convention, his charge that the "public faith is broke" was too serious to ignore. If Burgoyne already considered the agreement violated, what was stopping him from overcoming Heath's meager detachment of guards and decamping to Rhode Island? Laurens appointed a committee to investigate the claim and to determine a suitable response. On December 27th, the committee concluded that "the apprehensions of General Burgoyne's future intentions" to disregard the accord were warranted, and that the general's "personal honor is hereby destroyed." It was the committee's recommendation to delay the army's departure until the "King of Great Britain shall on his part cause his ratification of the said agreement to be properly notified to these States." The committee knew all too well that the king would never ratify a

³⁰ Gates to Laurens. December 3rd, 1777. Albany, NY. *PHL*, 12:126-128.

formal agreement with rebels; to do so would be to acknowledge the United States as a sovereign power.³¹

The recommendation was a bold departure from previous congressional policy. It is true that Congress had overturned the treaty of capitulation of the Cedars, as well as Arnold's cartel of exchange with Captain Forster in the summer of 1776, but not before conducting extensive eyewitness interviews and concluding that the British had openly violated the treaty by abusing American prisoners. Burgoyne had done no such thing. If the members of Congress voted to approve the committee's resolution, they would be openly invalidating the first international accord in which a congressional representative pledged the honor and faith of the United States. Doing so would be a clear violation of the laws of war and nations as enunciated by Vattel and an absolute rejection of the norms of Europe's culture of limited warfare. Richard Henry Lee feared that the British would use even "the appearance of infraction on our part" to "totally ruin the reputation" of the young nation in the eyes of the world. Unsurprisingly, the mood in the room was tense. Rather than make a hasty decision, Congress resolved to suspend discussion until a later date.³²

Almost a week elapsed before Congress again addressed the issue of the Convention. The members had had plenty of time to consider the committee's recommendations and to imagine the implications of their actions. Looking out at his colleagues from the president's chair, Laurens must have sensed their uncertainty. Everyone in the room knew where the president stood on the issue, but did he have

³¹ *JCC*, 9:1061, 1063, 1061. Ensign Anburey of the Convention army agreed. Upon hearing of the resolution, he determined that "ratification" was "an event that can never happen, as it would be allowing the authority of the Congress and the independence of the Americans." Anburey, *Travels*, 2:55.

³² Richard Henry Lee to Washington. November 20th, 1777. York, PA. *PGW*; *JCC*, 9:1064.

enough votes to suspend the embarkation? Before the vote was called, a portly delegate from New Jersey, the Scottish Presbyterian cleric John Witherspoon, addressed the assembled delegates. As Congress's chaplain, Witherspoon was a highly visible figure. Although hardly a moderate, as a well-respected member of the Board of War, Witherspoon was an ideal advocate for Laurens' position. Calming the more conservative members of Congress, Witherspoon began his speech by openly admitting that "the convention is not so broken, on the part of General Burgoyne, as to entitle us to refuse compliance with it on ours, and detain him and his army as prisoners of war." He agreed that it was absolutely imperative for an infant state like theirs to "preserve its faith and honour in solemn contracts." Yet, he suggested, it was also the "indispensable duty" of every member to see that "justice be done to the American States." The issue at hand was not Burgoyne's flags or unaccounted for military stores, the issue was Burgoyne himself. Witherspoon eschewed recourse to the scholarly works on the laws of nations; instead he asked his colleagues to use their powers of reason. Burgoyne's letter of November 14th was "of the most alarming nature" because by alleging "that the convention is broken on our part, he will not hold to it on his." To this logic, Witherspoon added a discourse on Burgoyne's character and career. As one of the British commanders during the siege of Boston, Burgoyne had called the burning of Charlestown "a glorious light." During his march from Canada, he had issued a "lofty and sonorous proclamation" promising violence and destruction to all who opposed him. By his actions, Burgoyne had shown himself to be "showy, vain, impetuous, and rash." In short, he was not to be trusted. On these grounds, and these grounds alone, Congress should impede his departure until it was clear he could do the people of the United States no more harm.³³

³³ *The Works of John Witherspoon, D.D...* (Edinburgh: Ogle and Aikman, J. Pillans, J. Ritchie, J.

Debate ensued for several more days, but Witherspoon had been convincing. On January 8th, 1778, after what Laurens characterized as "a long time on the Anvil," he called for a vote on the recommendation to suspend the embarkation of the troops until the Convention was ratified by the court of Great Britain. Enraged by alleged British atrocities and duplicities, fourteen members chose to forsake the norms of "civilized" warfare that they had so assiduously guarded since the conflict began. Only four dared raise their hand in opposition to the measure. Lacking any legitimate evidence of wrongdoing on Burgoyne's part, or even the pretense of proportional retaliation, Congress resolved to hold the Conventioners for the foreseeable future. Clearly satisfied, Laurens sent orders to Heath "to detain the said Lieutenant General Burgoyne[,] his Officers[,] Troops[,] and other persons and to suspend their intended embarkation until you shall be further Instructed."³⁴

Little did Laurens know, but his assessment of Burgoyne's intentions was correct. On November 16th, Howe had written Burgoyne in secret with a plan to free the Convention troops from their American captors. The previous winter, Howe had released nearly two thousand American prisoners from captivity under an agreement with Washington that an equal number of captured Britons would be returned in their stead. The insalubrious conditions of the British prison hulks in New York, however, had taken a toll on these men, and consequently very few of them had returned to their regiments. Washington was not about to release thousands of largely healthy British and German soldiers in exchange for the specters Howe had sent him. In the Convention troops,

Turnbull, 1805), 9 vols., 9:108-116.

³⁴ Laurens to Washington. January 5th, 1778. *LMCC*, 3:13; William Ellery of Rhode Island, Eliphalet Dyer of Connecticut, Abraham Clark of New Jersey, and John Harvie of Virginia voted against the resolution. Francis Dana of Massachusetts abstained. *JCC*, 10:30-35; Laurens to Heath. January 8th, 1778. York, PA. *LMCC*, 3:18.

Howe saw an opportunity to recoup his losses. He instructed Burgoyne that when the troops were "embarked, he is to proceed with the British Artillery men and Infantry to New York, my Design being to exchange the officers for those of the Rebels in my Possession, and the soldiers for the 2,220 Prisoners of the Enemy, that I sent in last Winter." He justified his decision by assuring Burgoyne that he intended "only to repair an Injury in which Mr. Washington so obstinately persists." Knowing that Congress and Washington would not agree with his logic, he ordered Burgoyne "to use every possible Precaution to keep the Enemy ignorant of my Intentions, as on the least suspicion the Troops...[will] be infallibly stopt [*sic*]." Without ever learning of Howe's plan, Laurens and his followers thwarted the British general, leaving the Convention troops in limbo: not quite prisoners, but certainly not free.³⁵

When news of the resolution leaked, fervent revolutionaries everywhere rejoiced. President Laurens was pleased to learn that his diligent efforts "for effecting the determination of Congress for suspending the embarkation of Mr. Burgoyne" met with the approbation of "the most sensible [civilians] and by all the officers in the Army." John Thaxter, one of Congress's clerks, was convinced that it was Burgoyne, not Congress, who had violated the agreement. He assured Abigail Adams that "the treaty has not been violated by us," and therefore Congress was "determined not to recede from their resolution of 8th of Jany." For many revolutionaries, the issue of who had violated the Convention first mattered not at all. The British had long since demonstrated their cruelty and perfidy. Scarcely a day went by without an account of another British atrocity in the newspapers. To irate whigs everywhere, it looked as if Congress had

³⁵ Howe to Burgoyne. November 16th, 1777. Philadelphia, PA. Sir Henry Clinton Papers. Vol. 27, Fol. 2. Clements Library. See also, "The Convention Troops and the Perfidy of Sir William Howe," *American Historical Review*, vol. 37 (1932), 721-723.

finally acted to obtain justice for the long suffering American prisoners in New York. New Jersey's governor William Livingston, writing in the *New-Jersey Gazette* under the pseudonym Adolphus, proudly proclaimed: "The detention of Burgoyne and his army, until the Convention of Saratoga is ratified by the Court of Great Britain, is a measure founded on the truest policy and strictest justice." His rationale had nothing to do with missing munitions or hidden standards, but was instead predicated upon Britain's repeated mistreatment of American prisoners. Reminding his readers of the plight of the Fort Washington prisoners, Livingston asked how they could trust the British to uphold the Convention when "three thousand freemen capitulate on condition of being treated as *prisoners of war*—but the moment their arms are out of their hands, they are treated as *rebels*, crowded together in the holds of transports, or amidst the unwholesome damps of churches, and suffered to perish with hunger and cold"? The answer was simple. They could not. From the outset of the conflict, he argued, Americans had treated British prisoners "generously while they [the British] violated every principle of justice—we treated them kindly while they outraged every sentiment of humanity...we have born their cruelty and frauds with a patience unparalleled in history." The only recourse Americans now possessed was to treat the British like they deserved, "as robbers and murderers when they presume to treat us as rebels."³⁶

Some revolutionaries, however, were less inclined to discard their vision of the normative practice of warfare between "civilized" peoples. To them, the resolution compromised the reputation of the United States and insulted General Gates. Alexander

³⁶ John Laurens to Isaac Motte. January 26th, 1778. *LMCC*, 3:52; John Thaxter to Abigail Adams. March 21st, 1778. LSC. MSS 88.190.291; *New-Jersey Gazette*, February 25th, 1778. This article was widely reprinted. For information on Livingston's pseudonyms see, *The Papers of William Livingston*, 2:3-6.

Hamilton, who aspired to be the very model of a European gentleman officer, was horrified. He accused Congress of having "embraced a system of infidelity." As he complained to the governor of New York, George Clinton, "they have violated the convention of Saratoga; and I have reason to believe the ostensible motives for it were little better than pretences, that had no foundation." Even President Laurens' own son John, an officer in the Continental army who supported the resolution, cautioned his father: "It might have been better perhaps if a little more republican laconism had been used in explaining the reasons for it." In his opinion, it would have been preferable to offer no justification at all. The evidence of bad faith on Burgoyne's part was simply not there. James Wilkinson, the officer who had been tasked by Gates to inform Congress of the Convention, felt "equally hurt and alarmed" by the news. He confessed to Gates, "I consider [the Conventioners'] detention inadmissible in the spirit of the treaty. I fear a timorous circumspection has sullied our reputation, and injured our cause." Years later, long after victory in the war was assured, Wilkinson still maintained that Congress's actions were "unworthy [of] the representatives of a free people." He would gladly have "fought over the campaign again, sooner than suffer the national honour to be tarnished."³⁷

Surprisingly, Washington was silent on the issue. Given his oft-repeated insistence on the humane treatment of prisoners of war, and his prior diligent observance of the laws of nations, Congress's resolution could not have sat easily with him. By the winter of 1778, Washington was no stranger to proportional retaliation, but to suspend a

³⁷ Hamilton to George Clinton. Valley Forge, PA. March 12th, 1778. Harold C. Syrett and Jacob E. Cooke, eds., *The Papers of Alexander Hamilton* (New York: Columbia University Press, 1961), 26 vols., 1:440; John Laurens to Henry Laurens. January 23rd, 1778. Wm. Gilmore Simms, ed., *The Army Correspondence of Colonel John Laurens in the Years 1778-8* (New York, 1868), 110; Wilkinson to Gates. January 15th, 1778. Albany, NY. Wilkinson, *Memories of My Own Times*, 1:379.

treaty agreed upon by two senior officers on the mere pretence of a violation was something else all together. On January 9th, Washington notified Laurens that the resolution would undoubtedly much "chagrine" [*sic*] Burgoyne, but he passed no judgment on the proceedings of Congress. Washington imagined himself as Congress's servant, and although he did not always agree with its actions, he could not publically criticize his civilian masters. He was also cognizant of the manifold benefits of delaying the troops' embarkation. Howe had had the better of his army during the previous campaign, and the remnants of his tattered force were suffering in the cold at Valley Forge. With Philadelphia, New York, and Newport in British hands, the addition of six thousand fresh British troops in the spring might be enough to annihilate the decimated Continental army, and with it, the revolution. Above all, Washington, like most of his countrymen, was furious about the frequent accounts of British mistreatment of American prisoners. Only twelve days after the resolution passed, and long before his British counterpart had learned of the suspension of Burgoyne's embarkation, Washington warned Howe that "Americans have the feelings of Sympathy, as well as Other men—A series of injuries may exhaust their patience—and it is natural that the Sufferings of their Friends in captivity should at length irritate them into resentment and to acts of retaliation." It seems probable that even Washington, the exemplar of revolutionary America's commitment to the European culture of war, had simply had enough. On Laurens' advice, Washington agreed to keep the resolution secret until General Burgoyne could be officially notified, and Heath's garrison strengthened lest the British general attempt to liberate his troops by force. Despite the best efforts of Congress to conceal the

resolution, it did not take long for the news to reach Boston. Even before the final resolution was approved, Burgoyne had heard of Congress's intentions.³⁸

Congress's resolution was the last thing that Heath and his beleaguered garrison of guards needed that winter. Tensions between the British troops and their American captors were already elevated before the rumors circulated. According to a German officer, "there is tremendous animosity between the American and the English soldiers, and there have been many vexatious occurrences." British resentment escalated precipitously when rumors of the suspension reached Prospect Hill. The American commandant of the British barracks, Colonel David Henley, who Heath would later characterize as "warm and quick in his natural temper," reported that "the prisoners have been mutinous, their Behavior insolent and outrageous" since learning of the impending resolve. One British prisoner threw a stone at an American sentry, "which deprived him of his reason and near his life." Others "arm'd themselves with clubs &c," daring the American guards to fire. The guards were able to disperse the mob "with firelocks club'd," but the next day a larger contingent of furious Britons opposed the sentries. Henley assembled his guards, leading them with sword in hand against the rioters. Seeing the futility of opposing a battalion of armed men, the prisoners began to disperse, but not with enough alacrity to placate Henley. His temper soaring, Henley ran "a British soldier through the body [with his sword] and push[ed] with such force" that it proved fatal. Standing over the body of the dying man, Henley had no regrets. He firmly believed that "lenity is often constru'd as timidity and thought more vigorous exertions

³⁸ Washington to Laurens. January 9th, 1778. Valley Forge, PA. *PGW*; Washington to Howe. January 20th, 1778. Valley Forge, PA. *PGW*. According to Heath, a traveler from Connecticut spread the word during the first week of January. Heath to Laurens. January 8th, 1778. Boston, MA. Heath Papers. MHS. Vol. 8, p.54.

necessary." Rounding up about forty Conventioners who had participated in the riot, Henley sent them under guard to a prison ship in Boston harbor.³⁹

Unlike the British prison ships in New York and Newport, which were the only viable option for housing enemy prisoners on those densely populated occupied islands, the prison ships in Boston existed solely for the purpose of retaliation. Although hardly a new weapon in the revolutionary arsenal, by the winter of 1777-1778 retaliation had come to dominate the American discourse on prisoner treatment. Through the tireless efforts of the revolutionary press, Americans throughout the continent were exposed to a barrage of articles enumerating British abuses of American prisoners, many of them New England privateers, in New York, Newport, and Philadelphia. One New England columnist contrasted the fate of "our countrymen perishing with cold or hunger in the goals [*sic*] of our enemies" to the experience of "the British and Hessian soldiers now among us, [who] enjoy plenty, warm fires, and the benefits arising from their labour." Why were these enemy captives allowed to roam about Cambridge seemingly at will, when American prisoners were dying by the day? The correspondent enjoined his countrymen: "Do not heaven and earth call upon us to put a stop to this pitiful milk and water kind of humanity, and to comepll [*sic*] our enemies to act justly, by Retaliation?" Like many of his colleagues, Connecticut General Israel Putnam thought "the Treatment which the Enemy have [*sic*] given to the unfortunate officers and soldiers of our Army who have fallen into their hands makes some step for Retaliation absolutely necessary." He believed all British prisoners should be exiled to the subterranean prison at the

³⁹ Ray Pettengill, trans., *Letters from America, 1776-1779: Being Letters of Brunswick, Hessian, and Waldeck Officers with the British Armies During the American Revolution* (Boston: Houghton Mifflin, 1924), 131; *Memoirs of Major General William Heath*, 149; General Report of the Garrison at Cambridge. January 7th, 1778. Heath Papers. MHS. Vol. 8, p.45.

Simsbury mines. Massachusetts-born Major Jonathan Rice had a more practical solution. If the British were going to use prison ships, so too should the Americans. As he confided to one of Heath's aides, "I wish every Briton now on Prospect-Hill was on board ye Guard-Ship."⁴⁰

Although unwilling to consign the entire Convention army to nautical confinement, in the winter of 1777-1778, Continental Commissary General of Prisoners Elias Boudinot authorized his deputy commissaries in Connecticut and Boston to outfit prison ships in their states for the purpose of retaliation. Prisoners not protected by the Convention were to be the first targets, but in the likely event some of Burgoyne's men proved rowdy or felonious, they too should face imprisonment aboard a hulk. The instructions came as no surprise to the commissary of prisoners for Massachusetts, Robert Pierpont; he had already been confining enemy prisoners on board a prison ship in Boston harbor for months. When captured Ensign Thomas Hughes arrived in Boston in early October, he and six fellow officers reported to the prison ship where they "were crowded into a hole, honour'd with the name of Cabin (hardly large enough to swing a cat), without bedding, knives, forks, plates, or the least conveniencies [*sic*]...as an addition to our distress, every crevice is full of vermin." In addition to the officers, Massachusetts' authorities relegated over two hundred enlisted prisoners, "with countenances the pictures of famine," to the ship's hold. As a result of congestion, poor sanitation, and insufficient rations, disease was rampant. Hughes suffered from "violent dysentery," while his captain was afflicted by "fever." Several hundred Canadian

⁴⁰ See for instance: *Norwich Packet*, January 20th, 1777, *Continental Journal*, February 13th, 1777, *Boston Gazette*, June 16th, 1777, *Independent Leger*, November 2nd, 1777, and *Continental Journal*, January 22nd, 1778; Israel Putnam to Jonathan Trumbull. January 6th, 1778. Trumbull Papers. CSL. Vol. 8, No. 34a; Jonathan Rice to Lieutenant Colonel Pollard. August 21st, 1778. Heath Papers. MHS. Vol. 11, p. 115.

loyalists and Brunswick troops, who had been captured at Bennington and thus not included in the Convention, experienced a similar fate aboard the prison ships. In November, the captives petitioned Commissary Pierpont, explaining "that our situation is too disagreeable to continue long, the farther we go the worse we are; being reduced to lay one upon the other, the vermin devouring us." When their cries fell on deaf ears, they begged Burgoyne to intercede on their behalf, for if he did not, "more than half will never live to see spring." Burgoyne could do little to help the men without compromising his argument that a firm distinction be made between traditional prisoners of war and the troops of the Convention. He knew that if Henley had his way, his entire army might be destined for the prison ships.⁴¹

When Burgoyne received intelligence of the riot, and its violent suppression, it looked as if his fears had come to fruition. He was indignant. Under the terms of the Convention, his men were not prisoners, and thus were not subject to American military justice. If his soldiers were guilty of misbehavior, it was his prerogative, not Henley's, to discipline them. On January 9th, Burgoyne admonished Heath for allowing Henley's "heinously criminal" behavior to go unpunished. In his strongly worded reproach, Burgoyne accused Henley "of the most indecent, violent, vindictive severity against

⁴¹ See Ezekiel Williams to Elias Boudinot. Undated, [1778]. Elias Boudinot Papers. HSP; Journal of the Massachusetts Council. Boston, April 23rd, 1777. William Bell Clark, William James Morgan, William S. Dudley, and Michael J. Crawford, eds., *Naval Documents of the American Revolution* (Washington, D.C.: Government Printing Office, 1996), 11 vols., 8:406; Thomas Hughes, *A Journal by Thos: Hughes...* (Cambridge: Cambridge University Press, 1947), 21, 23; *The Parliamentary Register*, 12:Appendix, ix-x. For an account of the Brunswick prisoners aboard the prison ship see Doblin, trans., and Lynn, ed., *The Journal of J.F. Wasmus*, 80. A Lutheran pastor, John Christoph Hartwick, who had visited the prison ship and had attended the spiritual needs of the prisoners, petitioned the Massachusetts Council on their behalf. "Your Honorable House will therefore consider that it would be in the highest degree cruel, unjust, and Impolitic to punish, by Way of Retaliation[,] such a number of Men by suffering them to lose their Life or Health after he has spared them, in giving Them Quarters." Apparently, the Massachusetts Council did not agree with Hartwick. Quoted in Robert Webler, "Records of Massachusetts Bay Concerning Brunswick Army Prisoners From the Battle of Bennington," *The Hessians: Journal of the Johannes Schwalm Historical Association*, vol. 8, (2005), 51-57.

unarmed men, and of intentional murder." Not only did Burgoyne demand that Heath release the Conventioners aboard the prison ships, he called for "a proper tribunal" to try Henley for murder. Only "prompt and satisfactory justice" would suffice.⁴²

Heath was in a difficult position. He knew of the rumors that Congress intended to delay the troops' departure, but he remained under orders to uphold the terms of Gates' convention to the best of his abilities. Unwilling to abandon the charade without positive instructions from Laurens to the contrary, Heath politely acknowledged Burgoyne's letter and promptly removed Henley from his post, pending investigation. Heath was unwilling, however, to deny the right of American authorities to punish disorderly or criminal members of the Convention army. He assured Burgoyne that "it is my fixed Determination, to Enquire into all abuses, whether Committed by my own Troops or those of the Convention." While Heath's assertion of absolute American authority over the Conventioners likely irked Burgoyne, the British general was mollified by Heath's swift response to his complaint. Heath even allowed Burgoyne to act as de-facto prosecutor in Henley's trial.⁴³

No stranger to the public stage, Burgoyne, who possessed both the legal erudition of a longstanding member of Parliament and the dramatic flair of a passionate devotee of the theatrical arts, thrived during the proceedings. He was so persuasive in his denunciation of Henley that the American Judge-Advocate, whose duty it was to prosecute the case, took on the mantle of defense attorney so as to give Henley a fighting chance. As it turned out, Henley had little to fear from the court itself. Were the judges to rule in Burgoyne's favor, they would be repudiating Heath's, and by extension

⁴² Burgoyne to Heath. January 9th, 1778. Cambridge, MA. Heath Papers. MHS. Vol. 8, p.64.

⁴³ Heath to Burgoyne. January 10th, 1778. Boston, MA. Heath Papers. MHS. Vol. 8, p.71; Sampson, *Escape*, 95.

Congress's, claim of jurisdiction over the Convention troops. Predictably, Henley was cleared of all wrong doing. He was officially reinstated to his post, but Heath soon transferred the colonel back to his regiment and away from Burgoyne: an acknowledgement of the general's herculean defense of his soldiers.⁴⁴

Although he did not know it at the time, Burgoyne's performance at the trial of Colonel Henley was the final act in his American saga. On February 4th, 1778, Heath formally notified the general of Congress's resolution to suspend the troops' embarkation. Burgoyne was despondent; sadness rather than outrage characterized his response. Upholding the Convention, and thereby returning his men to active service, was the only means of repairing his shattered reputation in England. With this prospect extinguished, Burgoyne finally surrendered. The vim and vigor that once characterized his correspondence were gone. Fearing that Burgoyne would attempt to escape, Washington had authorized Heath to increase his garrison of guards, but the measure was entirely unnecessary. The formerly fortunate gamester had played his last card, and now all he desired was to retire to England on his parole. With Washington's support, Congress resolved in March to allow the general to proceed home by way of Rhode Island. He sailed for England in April, never again to return to the continent that he had aspired to conquer.⁴⁵

Not all of the Conventioners shared their commander's quiet resignation. Burgoyne's officers believed that Congress had no right to suspend the terms of the

⁴⁴ Sampson, *Escape*, 95; Knepper, "The Convention Army," 84-84.

⁴⁵ Heath to Burgoyne. February 4th, 1778. Boston, MA. Heath Papers. MHS. Vol. 8, p. 216. According to Heath, "Genl Burgoyne and his officers appear much disappointed and exhibit an appearance rather of concern and uneasiness than sulkiness or resentment." Heath to Laurens. February 7th, 1778. Heath Papers. MHS. Vol. 8, p.237; Washington to Heath. January 22nd, 1778. Valley Forge, PA. Heath Papers. MHS. Vol. 8, p.150; Sampson, *Escape*, 96-7.

Convention. After all, the Convention had been established between two military officers on the basis of their own honor and reputations. To an eighteenth-century European officer, such contracts were inviolate. Ensign Anburey believed that only Americans could “be base enough to evade and break the articles of capitulation.” In his opinion, “the Conduct of Congress upon this extraordinary transaction, is extremely visible.” Anburey and his fellow officers indicted Congress for doing the unthinkable, failing to honor the norms of European warfare. For Anburey, the Americans had chosen “to sacrifice their faith and reputation...by an act never excusable.” In his estimation, Congress had obliterated any legitimacy America had as a state in the eyes of European powers. France and other potential allies would finally see the Americans for who they really were: rebels and rank amateurs.⁴⁶

With their embarkation suspended indefinitely, enlisted Conventioners no longer felt obligated to uphold their end of the bargain. In the opinion of Corporal Lamb, he and his comrades were “under no tie of honour,” considering “that Congress had no intention of allowing the British troops to return to England.” In light of Congress's duplicity, Lamb believed it was his duty to escape to New York to rejoin the fight. British officers, who had previously discouraged desertion when the troops were slated for departure, now agreed with Lamb and openly encouraged their men to flee. Deputy Commissary

⁴⁶ Congress first attempted to alter the terms of the Convention by requiring Heath to collect a list of all officers and men of the Convention army. Burgoyne rightly pointed out that this was not stipulated in the Convention. According to Heath, “General Burgoyne absolutely refuses compliance asserting that Congress have no right of interference in a Convention.” Heath to Henry Laurens. November 27th, 1777. *PHL*, 12:98; As Anburey phrased it, Congress's resolution “ever will be an obloquy upon America, and point out to other powers, what little dependence is to be placed upon her public faith.” Anburey, *Travels*, 53. A British officer in New York seconded his captured comrade's prediction. Major Patrick Campbell believed “the congress have acted unworthy of themselves and shewen [*sic*] the world what a nest of villians [*sic*] they are by the detention of General Burgoin [*sic*] and his troops in breach of the convention entered into between him and their general ... If after this there is a man in Britain hows [*sic*] blood does not boil to bring the treacherous raskals [*sic*] to the gallows he ought to share that fate with them, whether a Camden Pit, Boork or Barrie.” Campbell to Duncan Campbell of Glenure. March 14th, 1778. Staten Island. Papers of the Campbell Family of Barcaldine. National Archives of Scotland. GD170/1176.

General of Prisoners Joshua Mersereau reported that "above 200" escaped to New York that winter. He blamed the desertions on poor discipline among the guards and the illicit American practice of recruiting Conventioners whose sole motive for enlisting was "to get away" and return to British service. Heath was embarrassed, but he could do nothing "to prevent the troops from dispersing" except appeal to Congress and the Massachusetts Council for more men and more money: neither of which were forthcoming.⁴⁷

For General Heath, Congress's decision to detain the Convention troops proved an onerous burden. The resolution had not been accompanied by a vast influx of capital or the authority to requisition civilian property. He had begged and borrowed enough foodstuffs and necessities to keep the men from starving that winter, but by spring the general was absolutely at the end of his tether. In March, Heath explained to Laurens that the "troops of the Convention [are] suffering for fuel" and the "creditors will supply us no longer." From Congress's perspective, provisioning the troops' was the British army's problem. Under the terms of the Convention, the British were supposed to repay or replenish the supplies consumed by the Convention prisoners. Heath had received some support from General Howe that winter, but Congress had resolved in December that the British repay their debts in specie, rather than continental dollars, on the grounds that the British were guilty of counterfeiting continentals for the purpose of devaluing the currency. Burgoyne managed to repay most of his debt with a combination of coin and provisions before he departed, but after the January 8th resolution to suspend the troops'

⁴⁷ Hagist, ed., *A British Soldier's Story*, 56. Mersereau believed that the Germans were far less likely to desert to the enemy than the British. As he told Commissary General of Prisoners Elias Boudinot, "They are attach'd to the Country and believe will make good soldiers...I can manage 100 Germans easier than 10 british [sic] Troops." Mersereau to Elias Boudinot. April 29th, 1778. Boston, MA. American Revolutionary War Manuscripts Collection. Boston Public Library; Heath to Laurens. March 10th, 1778. Heath Papers. MHS. Vol. 8, p. 413.

embarkation, the British were in no hurry to continue funneling money into the rebel coffers. One British officer in Rhode Island even believed the Americans were detaining the Conventioners for the purpose of draining the royal treasury and reinvigorating their stagnant economy. When Congress requested that American merchants be granted passage into and out of Boston free of molestation by the Royal navy for the purpose of supplying the troops, General Howe refused. He hoped that if the Americans could not feed the men, they would be forced to release them.⁴⁸

Exacerbating Heath's predicament, General Burgoyne's successor in command, the irascible Major General of Artillery William Phillips, was determined to oppose him at every turn. From the beginning of his tenure as commander of the Conventioners, Phillips refused to acknowledge that for all intents and purposes his men were prisoners of war. After the promulgation of Congress's January 8th resolution, many Americans, as well as the revolutionary press, began to refer to the Conventioners as prisoners. As Phillips explained to British general Sir Henry Clinton, "the American Congress, as well as many others of the Americans have industriously use[d] the word 'prisoner,'" while "we have considered ourselves as passengers under the sanction and virtue of a treaty, not as prisoners." There was some truth to Phillips' claim; after all, the Convention itself was not suspended, only the embarkation of the troops for England. But by the spring of 1778, Phillips' insistence on the distinction had begun to grate on Heath. When Phillips pedantically lectured the American general on "the customs of Armies" in May 1778, Heath fired back, "notwithstanding your Knowledge and age in soldiering[,] you are much mistaken" Although Heath had been a farmer when Phillips had learned the

⁴⁸ Heath to Laurens. March 10th, 1778. Heath Papers. MHS. Vol. 8, p. 413; Laurens to Heath. December 27th, 1777. York, PA. *PHL*, 12:214-18; *JCC*, 9:1037; Knepper, "The Convention Army," 95, 89-90, 117, 104-5; Mackenzie, *Diary*, 1:235.

soldier's trade on the battlefields of Europe during the Seven Years' War, Congress had entrusted him to superintend the Convention troops, and he would brook no insubordination from one of his wards, no matter how exalted the man's rank, status, or experience.⁴⁹

The tension between the two men detonated in June 1778 when one of Heath's sentries killed a Convention officer. Lieutenant Richard Brown of the 21st Regiment was on a carriage ride around Prospect Hill, accompanied by two young ladies, when he was challenged by a fourteen year-old American soldier. Having difficulty controlling his chaise, the lieutenant failed to stop when hailed by the sentry—prompting the young American to discharge his firelock. Brown did not survive his wound. Possessed of all of Burgoyne's pomposity but none of his charm, Phillips accused the sentry of deliberate murder and the American people of possessing a "Bloody disposition which has joined itself to Rebellion." Excoriating Heath, Phillips raged: "I do not ask for Justice for I believe every principle of it is fled from this Province." Heath realized at once that the British general intended to capitalize on the horrible accident for propagandistic purposes by linking Brown's death to Congress's continued detention of the army. Heath would not allow such blatant opportunism. Heath refused Phillips' request to send an officer with the news to the British commander in New York, and he placed Phillips under house arrest. While apprising Laurens of his actions, Heath noted the mood of the people of Boston after the incident. In his opinion, Phillips had "given almost universal disgust here[,] and I am happy to say that the steps which I have taken meet a general

⁴⁹ Phillips to Clinton quoted in Sampson, *Escape*, 88; Phillips to Heath. May 18th, 1778. Cambridge, MA. Heath Papers. MHS. Vol. 9, p. 424; Heath to Phillips. May 19th, 1778. Heath Papers. MHS. Vol. 9, p. 424.

approbation." Surrounded by American guards, and unable to visit his troops, even Phillips was forced to admit that he was finally a prisoner.⁵⁰

Phillips' confinement did not go far enough for most Bostonians however; they wanted the British gone. While Boston merchants and Cambridge landlords had prospered from the British presence, most Bostonians resented the hauteur of the Convention officers and the relatively lax confinement of the enlisted men. Cavorting about the taverns of Cambridge, the paroled British officers offended the piety and probity of many Bostonians, and enlisted Conventioners escaped from the barracks were a constant source of frustration for American magistrates. As their detention dragged on, the soldiers suffered from the twin plagues of early modern armies: boredom and alcohol abuse. Vice, indiscipline, and malefaction were the invariable result. Typifying the infractions committed by the Conventioners, George Gilbert was confined on board a prison ship for "drinking damnation to the Congress." At his trial, Gilbert was contrite. He confessed "he was so much disguised with Liquour that he is not able to give any acct. of the matter himself." More seriously, James Fill Gerald stood trial for "a general abuse to the Inhabitants, threatening to Kill men and women & children and burn their houses." Though no witnesses stepped forward, the Court of Inquiry ordered him "confined in the Guard house."⁵¹

⁵⁰ Phillips to Heath. June 17th, 1778. Cambridge, MA. Heath Papers. MHS. Vol. 10, p. 97; Heath to Phillips. June 18th, 1778. Boston, MA. Heath Papers. MHS. Vol. 10, p. 98; Heath to Laurens. June 19th, 1778. Boston, MA. Heath Papers. MHS. Vol. 10, p. 112. Although he admitted that he was a prisoner, Phillips assured Heath that he would bear his captivity "and any other violence of power which may happen to me, with more patience than you may suppose." Phillips to Heath. June 19th, 1778. Cambridge, MA. Heath Papers. MHS. Vol. 10, p. 101.

⁵¹ Minutes of the Evidence brought against the prisoners. May 18th, 1778. Heath Papers. MHS. Vol. 1, p. 441; Minutes of the Court of Inquiry held at Cambridge. May 18th, 1778. Heath Papers. MHS. Vol. 9, p. 404.

Even law-abiding Conventioners could be a threat to the civilian population. Small pox and typhus were present among the troop; the former disease claimed the lives of over 300 Conventioners in the spring of 1778 and the latter took an additional forty-eight that summer. Cambridge authorities were so concerned about the potential for an outbreak that they cancelled Harvard College's commencement exercises. With Boston's jails and prison ships overflowing with unruly redcoats, and its hospitals crowded with contagious men, it is little wonder that James Warren felt it was "a misfortune to us that this State was pitched upon as the place of their captivity, especially as they were detained here so much longer than was at first expected." The Conventioners had worn out their welcome.⁵²

Washington, Heath, and the Massachusetts Council all agreed that the obvious solution to the problem was to exchange the Convention troops for Americans in British captivity. Article three of the Convention clearly stipulated that the troops were eligible for exchange under a general cartel. Washington had been in negotiations with Howe on the subject of a large-scale prisoner exchange throughout the winter, and ever since it had become clear that Congress intended to retard the troops' embarkation, his British counterpart had been eager to settle an accord. Congress, however, refused to budge on its insistence that the prisoners' accounts be discharged in solid coin. Fearing that the British might agree to the proposition, Congress further resolved that any American loyalist captured in arms against the United States would be sent to his respective state to be tried as a traitor. The penalty for treason in most states was death by hanging. With a significant part of his army composed of uniformed loyalist troops, this was a stipulation

⁵² Sampson, *Escape*, 102 and Krebs, *A Generous and Merciful Enemy*, 187; James Warren to Samuel Adams. June 28th, 1778. *Warren-Adams Letters*, 2:28.

to which Howe would never agree. Congress's intransigence stemmed not from insensitivity to the plight of the American prisoners in British hands, but from an acute realization that the detention of the Convention troops was a symbolic gesture: a very visible protest against the enemy's continued policy of atrocity and abuse.

Moreover, Congress was aware that any large-scale exchange of prisoners was simply not in the national interest at the time. While Howe primarily possessed American officers and sailors, having already released most of the enlisted men captured during the New York campaign, Congress now had an entire British army in its custody. Were Congress to exchange those troops for the American officers in the customary proportion based on rank, the British would instantly recoup a veteran field army for the ensuing campaign. Washington was not immune to this logic, but he had pledged "the public, as well as my own personal Honor and faith" to General Howe. If he were to rescind the offer, "it would be difficult to prevent our being generally accused with a Breach of good Faith." Congress had heard that indictment before, and Washington was no more persuasive than Burgoyne had been. With Congress unwilling to countenance the slightest compromise, the exchange negotiations, like those that preceded them, ended in stalemate. The best the negotiators could arrange was a partial exchange of fewer than one hundred prisoners, including the long-suffering Ethan Allen who was exchanged for the equally misfortunate Archibald Campbell, and the pampered Charles Lee for the once again captured Richard Prescott.⁵³

⁵³ John Mercier to Thos Bradford. April 24th, 1778. Boudinot Papers. HSP. Box 21, Folder 4; *JCC*, 9:1036-37, 1069; Washington to Laurens. March 7-8th, 1778. Valley Forge, PA. *PGW*. Thirty-four privates and three surgeons were also exchanged. Burrows, *Forgotten Patriots*, 127. See also, Betsy Knight, "Prisoner Exchange and Parole in the American Revolution," *The William and Mary Quarterly*, Third Series, Vol. 48, No. 2 (Apr., 1991), 201-222, 202-06.

Unwilling either to release the prisoners according to the terms of the Convention or to exchange them, and aware that Heath could no longer maintain the men in Massachusetts, Congress proposed its own solution to the problems posed by the Convention army: relocation. To better accommodate the troops, Congress had earlier authorized Heath to transport several hundred Conventioners from the British light infantry and artillery, fifty-five miles further inland to the town of Rutland. Though a minor infraction of the Convention, which stipulated that the troops be quartered "as convenient as possible" to Boston, neither Burgoyne nor Phillips had protested the move because they were hopeful that Rutland would provide more commodious quarters for the soldiers. Unfortunately for the troops, the housing situation in Rutland proved just as problematic as that at Cambridge. Landlords demanded exorbitant rates and the local committee of safety refused either manpower or material support to the American commissaries struggling to erect barracks. In September, Commissary Isaac Tuckerman pleaded with Heath's aide Jonathan Chase to stem the tide of relocation. "I have not the least prospect of procuring Quarters for the officers[,] it was with grate [*sic*] difficulty that the officers already here is [*sic*] quartered." Town officials had ignored Heath's pleas for assistance, and Tuckerman feared if any more Conventioners were to arrive, "we shall be in grate [*sic*] confusion as we have not Barracks to receive them." Another of Heath's commissaries, a Mr. Speakman of Brookfield, was horrified by the caprice of the local committees. He reported that two innocent Conventioners were "taken up by the Committee" and flogged "with an [*sic*] Horsewhip...in direct opposition to all Law." In light of this "Shameful sketch of Power," it is little wonder that Ensign Anburey believed that the troops were "treated with great severity, [and] very badly supplied with

provisions" by the committee at Rutland. In his opinion, both officers and soldiers were "treated worse at Rutland" than in Cambridge. Despite his best efforts, Rutland was not the solution Heath had hoped for. Thankfully for the exhausted general, Congress had a more ambitious plan.⁵⁴

On September 11th, 1778, Congress resolved to send Sir Henry Clinton, who had replaced Howe as the crown's commander-in-chief in America, an ultimatum. If the British general did not immediately discharge his debt in hard currency, Congress would relocate the Convention troops to a place of its choosing, negating the Convention in all but name. By Congress's reckoning, the British government owed the people of the United States £103,000 for the troops' upkeep since March. A British officer in New York estimated that at that rate, the crown would be in arrears "upwards of £200,000 sterling for the year." Naturally, neither Phillips nor Clinton agreed with Congress's calculation of the "pretended debt." Jonathan Clarke, the assistant Commissary General of the Convention army, warned Clinton that "upon refusing the Payment of the Accounts...the Congress will declare the Convention at an end, and the Army Prisoners of War." Given that "the prospect of their release [was] so distant," Clarke suggested that Clinton should consider giving up on the Convention altogether. Phillips agreed. If

⁵⁴ On February 19th, 1778, Congress authorized the Massachusetts Council to "remove, separate and place the said troops in such manner and in such parts of the said State as may be most convenient for their subsistence and security." *JCC*, 10:184-85; Isaac Tuckerman to Col. Jonathan Chase. September 5th, 1778. Rutland, MA. Massachusetts Council Papers, 1778-1779. The Felt Collection, also known as *Massachusetts Archives*, Massachusetts State Archives. Vol. 169, p. 155; G. Speakman to Heath. October 16th, 1778. Brookfield, MA. Heath Papers. MHS. Vol. 12, p. 20; Anburey, *Travels*, 2:214, 236. Jeremiah Powell of the Massachusetts Council informed Henry Laurens in April that the people of Rutland "are very averse to having a Body of those Troops placed in them, they are apprehensive of Danger." Jeremiah Powell to Henry Laurens. *PHL*, 13:217.

Congress intended to infringe the Convention, then Congress should pay for the army's upkeep. Emboldened by Phillips' advice, Clinton ignored Congress's demand.⁵⁵

At long last, Congress had its smoking gun. By refusing to pay Burgoyne's debt, Clinton provided Congress with just enough justification to shirk their obligations to the Convention once and for all. Since receiving word of Gates' negotiations, the mood in Congress had been against the Convention, and now with the French alliance secured, the assembled members voted on October 16th, 1778 to nullify it, consigning the Conventioners to indefinite confinement in Albemarle County, Virginia: one year and three days after they had laid down their arms in a field near Saratoga. Largely spared from the ravages of war, far removed from any British army, and already utilized to detain loyalist and Hessian prisoners, the interior of Virginia seemed to Congress to be an ideal location to confine and supply the Conventioners. There, Congress reasoned, the men could be held until the British reformed their barbaric ways or a favorable opportunity for exchange presented itself. If the Convention troops still harbored any doubts about the status of their captivity, they could now rest assured that they were in fact Congress's prisoners.⁵⁶

"More Dead than Alive": Virginia, Maryland, Pennsylvania, and the Destruction of the Convention Army

When he received Congress's orders, General Heath was wracked by competing emotions. On the one hand, he was relieved to be rid of the onerous burden. The

⁵⁵ JCC, 12:901-02; William Eden to Sir Henry Clinton. November 7th, 1778. Vol. 45. Fol. 22. Clinton Papers. Clements Library; Clinton to Germain. October 25th, 1778. Quoted in Knepper, "The Convention Army," 129; Jonathan Clarke. c. October 25th, 1778. Vol. 44, Fol. 14. Clinton Papers. Clements Library; Phillips to Richard Prescott. October or November, 1778. Vol. 44, Fol. 44. Clinton Papers. Clements Library.

⁵⁶ JCC, 12:1016; Knepper, "The Convention Army," 137, and Sampson, *Escape*, 105-106.

Contention prisoners and all of their complaints, peccadilloes, and misdemeanors, were now somebody else's problem. "The trouble & difficulty which I have had with the troops of the Convention," he told Washington, "are almost inconceivable." Yet, he could not hide his surprise at Congress's decision. It was one thing to delay the troops' embarkation; it was another thing altogether to dismiss the Convention outright, sending the men on an arduous trek of over six hundred miles so late in the year. Heath knew that many of the Conventioners would not survive the march. Moreover, despite his dislike of Phillips, Heath had grown fond of many of the senior officers of the Convention army. They had treated the Roxbury farmer with the respect due to his rank. He may have failed as a battlefield commander, but Heath had managed to keep Burgoyne's army largely intact with very little support from either local or congressional authorities. In one stroke, Congress's had erased the greatest achievement of Heath's military career. But his was not to reason why. Like so many good soldiers before and since, Heath followed his orders.⁵⁷

The officers and soldiers of the Convention army were equally shocked by the news. According to Ensign Anburey, "when this resolve of Congress was made known,

⁵⁷ Heath to Washington. November 12th, 1778. *PGW*. On October 25th, Heath informed British General James Hamilton that he found Congress's orders "as unexpected to me as they will to you." Knepper, "The Convention Army," 139. In a lament to Washington on the same day, Heath cited the officers' poverty and the dearth of flour as serious obstacles to a speedy relocation of the troops. Heath to Washington. October 25th, 1778. Boston, MA. Nonetheless, Heath promised to expedite their removal. Heath to Washington. October 26th, 1778. Boston, MA. Heath Papers. MHS. Vol. 7, p. 1 and Vol. 12, p. 96. One German officer was very precise in his estimation of the distance from Cambridge to Charlottesville. He suggested that, "We are going to *Albemarle* in Virginia, 583 English [120 German] miles from here." Pettengill, trans., *Letters from America*, 146. A British enlisted Conventionier, Corporal George Fox, thought the distance was "732 m. [to] Alber-man [*sic*] County" from Rutland. J.A. Houlding and G. Kenneth Yates, "Corporal Fox's Memoir of Service, 1766-1783: Quebec, Saratoga, and the Convention Army," *Journal of the Society of Army Historical Research*, vol. LXVIII, no. 275 (Autumn, 1990), 146-168, 162. Baroness von Riedesel claimed they traveled "678 English miles, in about twelve weeks." Brown, trans., *Baroness von Riedesel*, 80. Historian Andrew O'Shaughnessy has estimated that the main force travelled 641 miles from Cambridge to Charlottesville. Andrew O'Shaughnessy, *The Men Who Lost America: British Leadership, the American Revolution, and the Fate of Empire* (New Haven: Yale University Press, 2013), 159.

everyone one was struck with amazement." Corporal Lamb believed the orders for relocation were "universally considered by the privates as a very great hardship, and by the officers as a shameful violation of the articles of capitulation." Not only had the Americans abandoned any pretence of upholding the terms of the Convention, Anburey thought that they intended to destroy the army by "marching the men eight hundred miles in the depth of winter." The senior officers pleaded with Heath to delay the march until the weather improved, or at least until they had had an opportunity to convey their desperation to General Clinton in New York. All Heath could do, however, was pass on their lamentations to his superiors. He apprised Laurens that "they appear much affected at this order to remove so great a distance...the Germans in particular appear much dejected." Compounding their distress, the men had still not received their yearly issue of clothing. In the late fall of 1778, the prisoners were still wearing the threadbare, patched, and cut-down jackets of 1776. As if to torment the prisoners further, a cartel ship from New York arrived just as the men prepared to march carrying a fresh supply of clothing. Under strict orders not to delay the march, Heath had no choice but to deny the prisoners' request to re-clothe. The uniforms would have to be sent to Virginia by sea. One German officer despaired, "we shall have to make this wearisome march in our rags and find our uniforms in a climate where on account of the heat we may make little use of them." Grasping for a silver lining, Anburey consoled himself, "after the cruelties and barbarities the troops have experienced since our arrival, that we are quitting such an inhospitable country."⁵⁸

⁵⁸ Anburey, *Travels*, 2: 250; Hagist, ed., *A British Soldier's Story*, 61; Anburey, *Travels*, 2: 250; Knepper, "The Convention Army," 139; Heath to Laurens. October 29th, 1778. Boston, MA. Heath Papers. MHS. Vol. 12, p. 111; Pettengill, trans., *Letters from America*, 146; Anburey, *Travels*, 2:257.

On November 9th, 1778, 2,263 British and 1,882 German troops departed the Boston-area on a march that proved every bit as arduous as the prisoners' had feared. Having lost, or left behind, over eleven hundred men from desertion, disease, or death at the hands of American guards during its captivity in Massachusetts, the Convention army was a shell of its former self when the march began. As the prisoners progressed southward toward British-occupied New York at the blistering pace of twenty-seven miles per day, the "siren call" of freedom pulled many Conventioners away from their regiments. Because Washington could spare few Continental troops to serve as guards, Congress was forced to rely on the individual states through which the prisoners passed to provide security. Unsurprisingly, the men who reported for guard duty were seldom the most fervent or fit revolutionaries, and those prisoners bent on escape rarely had any difficulty accomplishing their ends. Corporal Lamb was among the 579 British and German troops who decamped along the line of march to Virginia in November and December 1778. In making good his escape to New York, Lamb evaded a harrowing ordeal. Those who remained with the army were not so lucky. Alexander King, a Connecticut man who witnessed the prisoners cross the Connecticut River in mid-November, noted that "they lost 2 of theirs on passing the River[,] the wind being high drove them over the falls." Those who survived, "suffered terribly from the cold and, what was even worse, from lack of food," according to the Baroness von Riedesel. When they were fortunate, the prisoners spent the evenings "in goals or Churchers [*sic*]," but the bulk of the time they bivouacked under the stars. Soon after beginning their journey, the snow set in, covering the soldiers as they slept, "1/2 yd deep." Braving the snow, the prisoners pressed on, with the first division arriving in Charlottesville in early January in

the midst of what Thomas Jefferson referred to as “the worst spell of weather ever known within the memory of man.” By mid-February, roughly three months after they had commenced the journey, the remnants of Burgoyne's army had all arrived, footsore and shivering, in Virginia.⁵⁹

Despite ample time between the prisoners' departure and their arrival in Charlottesville, revolutionary officials in Virginia were entirely unprepared to house and feed the weary troops. In settling on Albemarle County, Congress had listened to one of the Virginia delegates, John Harvie, who had offered to allow the prisoners the use of his personal property rent free. Hardly a philanthropist—he was actually in dire financial straits—Harvie realized that the prisoners would undoubtedly improve the land, thus increasing its resale value after their departure. Congress jumped on the opportunity. Dispatching Virginia-born commissary officer Captain George Rice with \$23,000 to build barracks on Harvie's land, Congress thought it had solved the problem of accommodating the men. With congressional cash already lining his pockets, Rice

⁵⁹ On the eve of the Convention troops' departure in late October 1778, Heath informed the Council of Massachusetts that "The British are 2,263, including officers, the German 1,882." *Collections of the Massachusetts Historical Society* [The Heath Papers] (Boston: The Massachusetts Historical Society, 1878, 1904, 1905), 3 vols., 2:279. According to a British return compiled in August 1779, now in the Clinton Papers at the Clements library, that was examined by Knepper, 1,035 British and 333 German enlisted men were lost during their confinement in Massachusetts. If this return was accurate, that would mean that 1,712 British and 2,170 Germans marched for Virginia. These numbers do not accord with either Heath's very precise accounting or a British return done in November 1778 that stipulates the number of British and German Conventioners respectively as 2,340 and 1,949. The British 1778 return would have included the Convention prisoners left behind at Rutland, thus the discrepancy with Heath's return. By comparing the 1778 British return and Heath's numbers, it appears that 77 British and 67 Germans were left behind at Rutland, too sick to make the march south. Using the total of 5,250 officers and men who surrendered under the Convention of Saratoga according to the Kingston return (2,747 British troops and 2,503 Germans), we can calculate the number of prisoners who died or deserted during their year in Massachusetts. Taking into account the 77 British and 67 Germans left behind, we calculate that 407 British soldiers (15%) and 554 Germans (22%) died or deserted that year. C.O. 5/171. National Archives of the United Kingdom. See also, Knepper, "The Convention Army," 197, 274; Houlding and Yates, "Corporal Fox's Memoir of Service," 162; Hagist, ed., *A British Soldier's Story*, 61-2; Diary of Alexander King. Book No. 6, p.13. Henry A. Sykes Collection, 1687-1789. Connecticut Historical Society. Historical Manuscripts. Call No. 83254; Brown, trans., *Baroness von Riedesel*, 79; Houlding and Yates, "Corporal Fox's Memoir of Service," 163; Jefferson to Governor Patrick Henry. March 27th, 1779. *PTJ*; Brown, trans., *Baroness von Riedesel*, 80.

departed for Charlottesville in little hurry to begin construction. To their horror, "instead of comfortable barracks," the prisoners found "a few log huts [that] were just begun to be built, the most part not covered over, and all of them full of snow." According to Brunswick Grenadier Johann Bense, he and his comrades had survived a "long, difficult march" only to discover that the barracks "were not even half finished...All walls were open; there were neither fire places nor sleeping places, no door and a miserable roof." "In order to protect ourselves against rain, snow, and cold," the men immediately began improving the shanties into something resembling habitable quarters. Corporal George Fox reported that their progress was impeded because Rice had failed to supply them with a sufficient supply of nails.⁶⁰

Of even greater concern, the Continental commissary officers in Virginia had failed to provide the prisoners with adequate provisions upon their arrival. When Congress ordered the Convention army to Charlottesville, the Board of War had allotted an extra \$7,000 over the cost of constructing the barracks to cover the immediate needs of the men upon their arrival, but the phantom provisions were nowhere to be seen. Anburey blamed Harvie, suggesting that the Virginia congressman "misguided and duped" Congress and absconded with the money. In reality, the Continental deputy Commissary General for Purchases, Colonel William Aylett, had misjudged the speed at which the prisoners marched and allowed the provisions he purchased to spoil. The results were the same however. According to Anburey, "for Six days they [the Conventioners] subsisted on the meal of Indian corn made into cakes." If the prisoners

⁶⁰ Philander D. Chase, "'Years of Hardships and Revelations:' The Convention Army at the Albemarle Barracks, 1779-1781," *The Magazine of Albemarle History* (1983), vol. 41, 9-53, 16-18; *JCC*, 13:39; Anburey, *Travels*, 2:317; Doblin and Lynn, trans., "A Brunswick Grenadier," 436, 439; Houlding and Yates, "Corporal Fox's Memoir of Service," 163.

had hoped that their relocation would bring improved provisions and accommodation, they could not have been more disappointed. Although the commander of the American guards, Colonel Theodorick Bland, had assured General Phillips in December, "as I ever feel for the misfortunes of the brave, so shall it always be my study to alleviate their distress when in my power," it was simply not in his power to feed the men once they arrived at Charlottesville. He had done his job, now it was Virginia's turn to provide for the prisoners.⁶¹

Predictably, Governor Patrick Henry of Virginia was dismayed by the prisoners' arrival. Deeply embroiled in his own war against British Lieutenant Governor Henry Hamilton on the frontier, Henry had neither the resources nor the manpower to support the prisoners. Congress, through its delegation of responsibilities to Harvie, Rice, and Aylett, had evidently botched the job, and Henry feared that he would have to pick up the pieces. Moreover, the governor believed that Charlottesville was entirely unsuited for the reception of prisoners of war. The inland hamlet was over seventy miles away from the nearest navigable river, thus impeding the prisoners' supply from the coast. Upon visiting the camp in late January 1779, the governor's deputy quartermaster William Finnie observed that the barracks were "Ill provided, and but very little Water near them." The supply wagons were easily bogged down on the dirt roads in wet weather, and the "troops cannot be regularly supplied." Finnie also believed that the price of grain in the region was "enormous!" Apprised of this information, the governor concluded that "the Troops

⁶¹ On October 17th, 1778, Congress allotted the Board of War \$30,000 for the Convention prisoners at Albemarle, \$23,000 of which was allocated to building barracks. *JCC*, 12:1020-21; Anburey, *Travels*, 2:364; Chase, "Years of Hardship," 24; Anburey, *Travels*, 2:318; Bland to Phillips, December 5th, 1778. Pittstown, NJ. Charles Campbell, ed., *The Bland Papers...* (Petersburg, VA: Edmund & Julian C. Ruffin, 1840), 2 vols., 1:110. Having successfully conveyed the troops to Virginia, Bland applied for and received leave to return home for the winter. When he later took up command of the Convention troops at Charlottesville, he was pleased that their situation had been "rendered so infinitely preferable to what it was at the time I quitted the command." Bland to Phillips, April 18th, 1779. *Ibid.*, 1:116.

cannot, by any Means, be supported in that Part of the Country." Thomas Jefferson disagreed. Seeking to maintain the influx of capital and consumers into his beloved Albemarle country, Jefferson reasoned that Congress had already spent close to \$25,000 building and guarding the barracks, to abandon them now would be wasteful. Furthermore, which state was better suited to provide for the prisoners? Away from the fury of the battlefield, Virginia was the ideal location. A more efficient commissary officer was all that was required to improve the prisoners' predicament. Jefferson's friends in Congress agreed with their former colleague. The Conventioners would stay put, and Virginia would pay for them.⁶²

Although the confinement of the senior officers improved with time—many of them enjoyed frequent visits to Monticello—the situation in the barracks continued to deteriorate. Through their labor, the troops had rendered the barracks habitable, but food remained scarce. According to Anburey, "the men have been exceedingly ill supplied with provisions in general, having meat only twice or thrice a week, and for some weeks none, what they get is scarcely wholesome, this is at present what the poor fellows term a fast." Despite the hopes of Phillips and his officers, the winter thaw did not bring much improvement at the barracks. It was not long before the pleasant spring air turned sultry and heavy with the heat. Insects, snakes, rats, and bats descended on the camp, tormenting the prisoners. Termites and grubs began demolishing their wooden barracks and decimating the gardens the soldiers' had planted to supplement their diets and prevent the onset of scurvy. Provisions remained inadequate throughout the summer. "For the greatest part of the summer they have been thirty and forty days, at different periods,

⁶² William Finnie to Congress. February 5th, 1779. *PCC*, Item 78, 9:221-23; Jefferson to Patrick Henry. March 27th, 1779. *PTJ*. For a full recitation of Jefferson's argument see Knepper, "The Convention Army," 157-8; *JCC*, 13:216-7

without any other provision delivered to them than the meal of Indian corn," according to Anburey. Even the salted provisions were tainted in his estimation. Attempting to save a quantity of salted meat, the American commissary buried the food "in the earth for a few days" before serving it to the troops "swarming with vermin." Predictably, a new wave of desertion, disease, and death inundated the camp. Corporal Fox recalled helping to fence in an acre of land "to prevent the wild beasts from breaking in" and devouring the bodies of his deceased comrades. According to a British return compiled in August 1779, only 1,495 British and 1,533 German prisoners remained alive in Charlottesville. Since leaving Massachusetts, the British and Germans had lost 34% and 18.5% of their number to death and desertion respectively. Hardly one for hyperbole, Baroness von Riedesel enunciated the prevailing sentiment in the barracks when she confessed feeling "more dead than alive" that summer.⁶³

Back in Massachusetts, roughly 150 infirmed and diseased Convention prisoners, along with their comrades who had been captured before the Convention was signed, were in equally dire straights. Congress had completely forgotten about them after the bulk of the prisoners had marched southward. Upon turning over command of the Eastern Department to General Gates in November 1778, Heath informed his successor that the prisoners at Rutland were "in great distress." Without assistance from Congress, however, Gates could do little to ameliorate their plight. The next April, Commissary Mersereau pleaded with Heath to exert his influence in the prisoners' favor. "We are in a Deplorable situation here—the flour almost gone...I shall not know how to provide for

⁶³ Anburey, *Travels*, 2:361, 363; Brown, trans., *Baroness von Riedesel*, 82; Anburey, *Travels*, 2:361, 363, 364, 384; Brown, trans., *Baroness von Riedesel*, 83; Knepper, "The Convention Army," 183; Houlding and Yates, "Corporal Fox's Memoir of Service," 163; Anburey, *Travels*, 2:436; Houlding and Yates, "Corporal Fox's Memoir of Service," 163; British return of August 1779. C.O. 5/170, in Knepper, "The Convention Army," 274; Brown, trans., *Baroness von Riedesel*, 84.

the prisoners, I cannot make bricks without straw." By the end of May, Mersereau assured Heath that "many of the prisoners have not had a mouthful of Bread, this 3 days." Describing the result of their starvation diet, he wrote only: "Women and children crying, prisoners murmuring for Bread." If adequate provisions could not be had, Mersereau suggested the obvious solution: an equitable exchange. As he told Heath, "I think it would be best to rid the Country of all the British [prisoners]." Gates' had other plans however. Afraid of being seen by Congress as overly lenient to the Convention prisoners, Gates instructed Heath to "order every one of the Conventioners now in Confinement [at Rutland]...to be brought to Boston, where it will undoubtedly be right to secure them in the Prison ship." There they would languish until Congress saw fit to exchange them.⁶⁴

While Congress had acquiesced to the exchange of numerous Convention officers for their American counterparts in British custody throughout 1778 and 1779, revolutionary America's political leadership remained unwilling to countenance a general cartel of exchange. Despite Phillips' best efforts at negotiating first with Gates and then with Washington on the basis of their individual honor "as Gentlem[e]n," both American commanders refused to infringe upon Congress's prerogative. Washington hoped, however, that Congress would consent to an exchange that included all of the Convention prisoners. After all, desertion and death were depleting the Convention army at an alarming rate. If a cartel were not soon agreed upon, there would be no one left to

⁶⁴ According to my calculations based on a British return from November 1778, 67 German Prisoners and 77 British prisoners were left behind in Rutland. See note 59. Heath to Gates. November 18th, 1778. Roxbury, MA. Heath Papers. MHS. Vol. 12, p. 190; Mersereau to Heath. April 9th, 1779. Rutland, MA. Heath Papers. MHS. Vol. 12, p. 286; Mersereau to Heath. May 28th, 1779 and June 2nd, 1779. Rutland, MA. Heath Papers. MHS. Vol. 13, pgs. 27, 46; Mersereau to Heath. April 18th, 1779. Heath Papers. MHS. Vol. 12, p. 316; Gates to Heath. May 4th, 1779. Providence, RI. Heath Papers. MHS. Vol. 12, p. 373.

exchange. Notwithstanding Washington's ardent desire for compromise, an attempt to negotiate a cartel in the spring of 1779 failed for the same reasons as prior efforts; Congress was unwilling to part with the Convention troops. As both the physical embodiment of the revolution's greatest triumph and the most suitable subjects for congressional retaliation, the Convention army was far more valuable to the revolutionary effort than the parcel of privateers and Continental officers Clinton held in New York. Disappointed, but unsurprised, the British high command concluded that Congress was guilty of its usual "chicane." Phillips took the news the hardest. Convinced that he had done his best to obtain his army's release, the British general, like his predecessor Burgoyne, finally gave up. Pleased to be rid of him, Congress granted his request to go to New York on parole in June 1779.⁶⁵

Abandoned by many of their officers who chose the comforts of parole in New York or England over the miseries of life at the barracks and debarred from exchange by Congress, the rank and file of the Convention army continued to suffer in silence throughout the spring and summer of 1780. Anburey believed "the soldiers fare little better than on their first arrival." The Continental commissary officer charged with provisioning the troops, Francis Tate, described the difficult task he faced in March 1780: "Description falls short of my distressful situation[,] some of the Convention troops have been without bread fourteen days, their melancholy complaints & plays [*sic*] (although an enemy) makes me perfectly Miserable." He begged his superior in Philadelphia, Major

⁶⁵ Phillips believed that he could bribe Gates into interceding upon his behalf with Congress to secure the exchange of his men. He was mistaken. Gates passed the proposal on to Congress where it was rejected. Knepper, "The Convention Army," 179-81; Phillips to Washington. January 6th, 1779. Sussex, NJ. *PGW*; Washington to Phillips. December 25th, 1778. Philadelphia, PA. *PGW*; Knepper, "The Convention Army," 214; Germain to Clinton. June 25th, 1779. Clinton Papers. Clements Library. Vol. 61, Fol.40; *JCC*, 14:679; Knepper, "The Convention Army," 226-8.

Robert Forsyth, to "have such steps taken as will prevent our being quite starved." It was not long before the prisoners exhibited "violent symptoms of scurvy," according to the new Continental commander of the barracks Colonel James Wood. In late August 1780, the prisoners had not received any meat for seventy days. Realizing that the situation was untenable, Wood appealed to the Assembly of Virginia for aid. Despite "frequent Representations to the Governour of their want of supplies...[he had been] furnished in a very disproportionate manner." Wood requested any assistance the Assembly could grant him, reminding the legislators that "Congress had made a resolution to the Executive of the State of Virginia to supply the said Troops in future." The Assemblymen sympathized with Wood, but they could not help. The prisoners were the governor's problem.⁶⁶

Replacing Patrick Henry as governor of Virginia in June 1779, Thomas Jefferson had reversed his stance on the continuance of the Convention prisoners in his state since coming to office. The prospect of feeding and guarding so many enemy troops without any support from Congress, while threatened by British raids on the coast and by invasion from the south, was too much for any state to bear. Jefferson wanted the prisoners gone. When British General Cornwallis defeated General Gates and the American southern army in August 1780 at Camden, South Carolina—thus destroying the latter's reputation won at Saratoga—Jefferson panicked. Nothing but a handful of Continental guards and some militia stood between Cornwallis and the Convention prisoners. Were Cornwallis to liberate the men, he would significantly augment his force

⁶⁶ Anburey, *Travels*, 2:436; Francis Tate to Deputy Commissary General of Purchases Robert Forsyth. [March, 1780]. James Wood Papers. The Library of Virginia. Accession Number 28960; Wood to Jefferson. June 8th, 1780. *PTJ*; James Hamilton to Washington. August 24th, 1780. Gratz Collection. HSP; Wood to the Assembly of Virginia. [July 1780]. James Wood Papers. The Library of Virginia. Accession Number 28960.

with veteran troops, and Jefferson would not be able to stop him from overrunning the state. In September 1780, Congress answered Jefferson's pleas by resolving "to march the Convention troops from Albemarle barracks, by way of Winchester, to fort Frederick, in the state of Maryland." The governor's enthusiasm was tempered, however, by the added proviso that Virginia and Maryland split the expense of provisioning the prisoners equally. The resolution was a bitter pill for Jefferson to swallow, but at least Virginia would be free of the troublesome prisoners.⁶⁷

Relocation to Maryland was even more alarming to the Conventioners. The British prisoners had worked tirelessly to make their quarters at Charlottesville habitable, while the Germans, who the revolutionaries deemed less of a flight risk, had enjoyed the freedom of working and lodging with local farmers. The officers, who were required to pay for all of their own expenses, were particularly aggrieved by the prospect of another removal. Anburey observed that "the murmurs of the officers were great...many had laid out considerable sums to render their log huts comfortable against the approaching winter." Compounding their concerns, the officers had little ready cash to remunerate their creditors and pay travel expenses. Several German officers pleaded with General Clinton to provide them with a moving stipend because they had "experienced in the painful course of three years captivity considerable losses of different kinds, occasioned particularly by expensive removals from place to place at our own expense." The British government disagreed on the grounds that refunding such expenses would set a bad precedent for other prisoners of war. The officers would have to make do with what Congress provided. Despite their grievances, the Convention prisoners began their march

⁶⁷ JCC, 18:842-3; Sampson, *Escape*, 144-145.

northward in November 1780—the third winter march since their captivity began—once again hopeful that new environs would bring a reversal of their fortunes.⁶⁸

Regrettably for the Conventioneers, Maryland was hardly a panacea. With a much smaller tax base than its neighbor to the south, the state did not have the resources or infrastructure in place to absorb the prisoners. The new commander of the Convention army, Brigadier General James Hamilton, reported to Clinton in December that the troops "were with much difficulty received by the States of this Province." His laconic description belied the horrors the men endured in the state. When they arrived at Fort Frederick, a ruin of a Seven Years' War-era frontier post, there were not enough barracks to even house the British prisoners. Thankfully, Jefferson was willing to keep the German prisoners, who he believed were less truculent, at Winchester while Maryland authorities scrambled to find quarters for the army. In early December, Maryland's commissary of prisoners, Lieutenant Colonel Moses Rawlings, told the governor of Maryland, Thomas Sim Lee, that "my Situation here is Truly alarming, for the prisoners really [*sic*] suffer for water as well as meat, for the wells Both in & out of the fort are Dry." Unsurprisingly, the prisoners grew restive. Rawlings had had to resort to force to quell an insurrection of the starving prisoners who nearly overpowered his guards. Sending a contingent of British prisoners to the barracks in the town of Frederick eased Rawlings predicament somewhat, but he still lacked the means to adequately feed the men. In late January 1781, General Hamilton, exasperated by Rawlings' empty promises, lodged a formal complaint with Governor Lee in favor of his beleaguered soldiers. "The Troops have received no Meat for these five Days past this Day included, & that the

⁶⁸ Anburey, *Travels*, 2:466; Brunswick and Hesse Hanau Officers to Clinton. [1780]. Clinton Papers. Clements Library. Vol. 136, Fol. 11; Leonard Morse to Sir. Benjamin Thompson. February 5th, 1781. Clements Library. Vol. 145, Fol. 29.

ration in that Specie has been considerably diminished of late." In addition, Hamilton complained "of the irregular & scanty manner that fuel is served out" and of the dearth of nails and boards with which to improve their barracks. The Council of Maryland responded by promising boards and nails, but they could do little about provisions because Jefferson had not been forthcoming with Virginia's share. In Jefferson's opinion, the necessity of feeding the American southern army superseded his responsibility to the Conventioners. Unable to meet Congress's demands, Jefferson appealed to the Board of War for "a revisal of this requisition."⁶⁹

With neither Virginia nor Maryland capable of sustaining the prisoners, Congress was forced to reevaluate its stance on the Convention army. The initial decision was just more of the same: relocation. On March 3rd, 1781, Congress resolved to march the remaining 819 British officers and men to the prisoner-of-war depot at York, Pennsylvania. The Germans would be interned in Lancaster. The executive of Pennsylvania was ordered to "make the necessary preparations for the reception of the prisoners," but he was promised that once the prisoners arrived, the congressional Board of War would "take order for their future security and supply." Many in Congress, however, realized that moving the prisoners to Pennsylvania would not solve the root problem: holding the Convention prisoners was too expensive. The prisoners' march was suspended while Congress debated a more comprehensive solution. Reviewing the history of the Convention prisoners, a congressional committee concluded that for years

⁶⁹ Hamilton to Clinton. December 17th, 1780. Clinton Papers. Clements Library. Vol. 134, Fol. 13; Knepper, "The Convention Army," 209-10; Rawlings to Lee. December 5th, 1780. Fort Frederick, Maryland. *Archives of Maryland*, 45:199. In January 1781, the Council of Maryland requested that the trustees of the poor house in Frederick allow prisoners to be housed in their buildings. The trustees granted the request. *Archives of Maryland*, 45:267; Hamilton to Lee. January 30th, 1781. *Archives of Maryland*, 47:41-42; Council of Maryland to Hamilton. February 8th, 1781. *Archives of Maryland*, 45:306; Jefferson to Samuel Huntington. January 15th, 1781. Richmond, VA. *PTJ*.

the troops had been subsisted, at least in theory, at the same rate of rations as Continental soldiers according to the fifth article of the Convention while other British prisoners of war received only a two-thirds allotment. Under the Convention, the British government should have reimbursed the Americans for all of the expenses incurred by the troops, but General Clinton had no intention of paying for their upkeep as long as they were de-facto prisoners. If Congress would have to foot the bill either way, the committee reasoned, why not declare the Convention at an end and reduce the prisoners' rations?⁷⁰

To a cash-strapped Congress, the logic was irresistible. The committee's report was amended so as to maintain a nominal distinction between the Convention prisoners and other prisoners of war, but the results were the same. The Conventioners were now prisoners of war in name as well as status. According to the resolve, the officers would be separated from their men, sent on their parole to Simsbury in Connecticut, and the enlisted soldiers would be closely confined and reduced to two-thirds rations. Congress's resolve had little immediate effect, however, because the prisoners had not been receiving anything close to two-thirds provisions for months and there were not enough jails in all of Maryland to confine the whole army. Expressing what must have been a common question among the prisoners, Moses Rawlings despaired in May, "what will become with the guard and prisoners[,] God only knows." The one thing that Rawlings could be assured of was that Maryland could not continue to support them. According to a Conventioner escaped from Frederick, the prisoners were "treated with the greatest severity—being ill off for provisions—one pound of coarse Indian Meal & 1- ounces of

⁷⁰ *JCC*, 19:230. See also, *JCC*, 19: 259, 263 and Sampson, *Escape*, 165. On March 25th, 1781, Lt. Col. Jonathan Hill of the 9th Regiment compiled a return of the British prisoners at Frederick Town. At that time, there were 610 rank and file prisoners and 209 officers, noncommissioned officers, musicians, and supernumeraries present. *Archives of Maryland*, 47:147; *JCC*, 19:299-302.

flour is allowed them as a Ration." Now that the men were considered prisoners of war, the escapee reported that they would likely be "close confined." Ensign Anburey feared that his men would be "forced from us into a prison, where experiencing every severity, perhaps famishing for want of food, and ready to perish with cold," they would have no one to advocate in their favor. He had learned well over the years that British prisoners had "little to expect from the humanity of Americans." Unfortunately for the enlisted Conventioners, Anburey proved prophetic.⁷¹

In the summer of 1781, after a series of conflicting orders from Congress, the Convention prisoners marched for Pennsylvania where they would endure their most trying confinement yet. By the time the British prisoners arrived at Lancaster in early June 1781, there were scarcely six hundred Britons remaining with the army, but because the troops were accompanied by "near five hundred Women & children"—many of the prisoners had married American women during their captivity in Virginia and Maryland—the commissary of prisoners in the city, William Atlee, could not find suitable housing for them. The hastily constructed stockade at Lancaster could barely contain the single men alone. Atlee had little option but to allow the married men and their families, whom he believed less prone to escape than their unattached comrades, to encamp outside of the prison's walls. But without a roof over their head, these prisoners were "badly shelter'd from the weather." Exacerbating an already perilous state of affairs, the barracks at Lancaster had recently been used to house "near eight hundred Prisoners of War...among them a great number sick of a putrid fever." Within days of their arrival, Atlee informed the state's executive, President Joseph Reed, that "this fatal

⁷¹ Moses Rawlings to James Wood. May 24th, 1781. Quoted in Sampson, *Escape*, 166; Deposition of James Kidd. May 20th, 1781. Clinton Papers. Clements Library. Vol. 156, Fol. 6; Anburey, *Travels*, 2:509.

disorder has gained ground & there are now at least a hundred & fifty sick in these greatly crowded [*sic*] Barracks without a prospect of its abating." Corporal Fox believed that the Conventioners suffered from "yellow fever" introduced by other prisoners recently arrived from Philadelphia's notorious New Jail. Disease was certainly present in the jails of Philadelphia that summer. An escapee reported in April that "our Prisoners [in Philadelphia] are very sickly and many of them have died." Whatever its source or typology, the epidemic was virulent. "Not less than 4 to 6 are daily buried owing to their crowded situation," according to American Colonel Adam Hubley. From the vantage point of Corporal Fox inside the barracks, it looked as if his comrades "died like rotten Sheep."⁷²

Attempting to stem the contagion, Pennsylvania authorities moved the prisoners to York in mid-August, but their health continued to deteriorate. Neither Congress nor Pennsylvania's revolutionary government had allocated any resources to refurbishing the town's barracks or to stockpiling provisions for the troops. Upon their arrival, they were forced to once more construct their own prison. As soon as their "huts" were constructed, the healthy prisoners began laying out a cemetery and digging graves. Before the month was out, the prisoners had "Buried upwards of forty Men[,] women, and children."

Although an attempt was made to build a hospital, British Surgeon's Mate Benjamin Shield noted that the prisoners were "falling Sick so fast there was not Men enough to

⁷² An escaped Conventioner reported in February, that the prisoners' health and treatment had improved during their stay in Maryland. According to the prisoner, the troops "were in general very healthy and were served with much better Provisions then they had been for some considerable Time before they left Virginia." William Campbell to William Phillips. February 7th, 1781. Clinton Papers. Clements Library. Vol. 145, Fol. 23; William Atlee to President Reed. June 13th, 1781. Lancaster, PA. *Pennsylvania Archives*, Series 1, 9:203-05; Sampson, *Escape*, 170; Deposition of Hugh Torence. April 16th, 1781. Clinton Papers. Clements Library. Vol. 152, Fol. 34; Col. Adam Hubley to Pres. Reed. July 13th, 1781. Lancaster, PA. *Pennsylvania Archives*, Series 1, 9:279; Houlding and Yates, "Corporal Fox's Memoir of Service," 165.

attend the Sick." Reporting on the camp's conditions to General Hamilton, Shield bemoaned, "I have often been at a loss to distinguish which most deserv'd to be lamented by their Country in whose cause they have and are still hourly suffering, the sickening, the dying, or the Dead." The entire army, in his opinion, was "at the very jaws of Death." Without fresh clothing, blankets, and medicines, the army would never survive "the severity of a long Winter." By his accounting, 196 men were suffering from the "Jailfever:" fully one third of the remaining British prisoners. In August, Sir Henry Clinton was informed by an escaped prisoner that the Conventioners at Lancaster "die three or four a day." Nonetheless, Clinton, like Congress, was unwilling to sacrifice any political capital by appropriately supplying the men. If Congress intended to keep the Convention troops as prisoners, Congress would have to pay for them.⁷³

The plight of the German Conventioners was little better. Once they arrived in Pennsylvania in summer 1781, the men were forced to camp "on a meadow in the open air for 8 weeks and were plagued by the great heat during the day and by rain and cold during the night," because local authorities had nowhere to house them. When they were finally moved to Reading in mid-June, the American commissary in town ordered the men to construct barracks. Frustrated by the prospect of building another set of barracks that in all likelihood they would soon be forced to abandon, the German prisoners refused. According to Grenadier Bense, they insisted on building straw huts instead. For their noncompliance, the prisoners were "treated very severely" by the American guards,

⁷³ General William Irvine informed Reed in early August that "no person has as yet undertaken to supply the Post at York with provisions." Irvine to Joseph Reed. August 9th, 1781. *Pennsylvania Archives*, Series 1, 9:346; Houlding and Yates, "Corporal Fox's Memoir of Service," 166; Horace W. Sellers, ed., "Letter of Surgeon's Mate Benjamin Shield to Brigadier-General James Hamilton, 1781," *The Pennsylvania Magazine of History and Biography*, Vol. 19, No. 1 (1895), 116-118; Deposition of Richard Bradshaw and William Simmons. August 13th, 1781. Clinton Papers. Clements Library. Vol. 170, Fol. 14.

and eventually forced to build more permanent housing. The prisoners were equally frustrated by the paucity of their rations. President Reed refused to supply the men on the grounds that "the Prisoners are brought into Pennsylv. [*sic*] by order of Gen. Washington & Congress." In his opinion, it was "the superintending Continental officer" and the congressionally-appointed contractor's responsibility to "keep good order" and "to supply them with Provisions." Though ostensibly agreeing with Reed, the Board of War had poorly calculated "the Numbers of Rations necessary" for both the German and British prisoners, and thus had not provided a sufficient supply. When Colonel Wood, still the Continental officer in charge of the Convention prisoners, appealed to Pennsylvania Commissary William Scott for supplies, President Reed responded in no uncertain terms. "We do not conceive it incumbent on us to provide" provisions for the prisoners. While Congress, the Board of War, and the Council of Pennsylvania tried to sort out the issue of who was responsible for feeding the men, the prisoners went hungry. Only Congress's decision to allow the Germans to hire themselves to local farmers, as had been the congressional policy for the Hessian prisoners captured at Trenton, prevented the men from starving.⁷⁴

While the Convention prisoners suffered and died in overcrowded and disease-infested camps in Maryland and Pennsylvania, Congress remained steadfast in its refusal to exchange them. Even after the fall of Charleston in May 1780, when for the first time since Saratoga the British held more prisoners than Congress, the American legislators

⁷⁴ Doblin and Lynn, trans., "A Brunswick Grenadier," 442; Pres. Reed to William Scott. [Summer, 1781]. *Pennsylvania Archives*, Series 1, 9:302; Board of War to Pres. Reed. July 17th, 1781. *Pennsylvania Archives*, Series 1, 9:290; Reed to Col. William Scott [Summer, 1781]. *Pennsylvania Archives*, Series 1, 9:350. Grenadier Bense recorded that the prisoners' "situation was pretty good" after they allowed "some freedom to go into the country and work." Doblin and Lynn, trans., "A Brunswick Grenadier," 442; Krebs, "Approaching the Enemy," 351.

refused Clinton's proposition for a cartel that would include the Convention troops. The Convention army remained symbolically, financially, and politically too valuable to Congress to be traded for captured Americans whose enlistments were about to expire. Forlorn, Germain complained to Phillips: "It is not easy to imagine upon what grounds the Congress attempted to justify their refusal to exchange the privates of the Convention Troops in the same manner with other prisoners of war." He could not fathom why Congress would not only deny them the "benefit of [the] Convention" but also treat them "with more severity than" other prisoners of war. The Americans were not following "any rules of reason." For Congress, reason had nothing to do with it. After years of British violations of the customary norms of "civilized" warfare, Congress had made a stand. The indefinite detention of the Convention prisoners was an act of retaliation, not for any specific British misdeed, but for all of them. Long accused by its constituents of turning a blind eye to British atrocities, Congress had finally taken a strong stance against the British bully. The miseries experienced by the Convention prisoners would never make up for those endured by American captives, but the gesture was spectacularly popular among revolutionary Americans who no longer sought justice, only revenge. Prisoner exchange negotiations continued for the remainder of the war, but Congress had made its decision. As long as British troops sought to conquer America, the Convention army would remain in captivity.⁷⁵

When the preliminary articles of peace arrived in New York in 1783, the Convention prisoners were exactly where Congress had left them two year earlier: either confined in the jails and prison camps of Pennsylvania or at work with local inhabitants.

⁷⁵ Knight, *Exchange*, 209-10; Sampson, *Escape*, 143; Germain to Phillips quoted in Sampson, *Escape*, 143.

There were not many left. In the fall of 1782, Sergeant Major Samuel Vaupel of the Hesse Hanau Regiment reported to his commander that only three hundred Hessian and Brunswick Conventioners remained with the army: dispersed between the barracks and jails of Reading and Lancaster. Grenadier Bense was one of the forty-two unfortunate prisoners confined "in the dungeon" of Lancaster. He described the remnants of the German contingent as "the most wretched and most miserable men." When he witnessed the arrival of the German Conventioners in New York, Hessian officer Johann Ewald observed that "they were not half clad, and misery and hunger could be read in their faces." He believed that "on the whole, the Brunswick troops [of the Convention army] have endured the most misfortune of all the Germans" who served in the war. With the British prisoners at York, Corporal George Fox was confined in a fenced in barrack when he received news of the peace. Fox was one of only 511 British Conventioners, including large numbers of re-captured escapees, still in American custody that May. Of the over five thousand British and German soldiers who surrendered their arms under the protection of the Convention of Saratoga in 1777, fewer than eight hundred marched for New York at war's end. Many of the prisoners had already escaped to British lines, and others had found new homes among the Americans. Both American and British observers noted that desertion was widespread, especially during the army's frequent marches to new places of confinement. We know of the identities of least 315 British Conventioners who either escaped or attempted to escape their confinement, and there were certainly far more escapees than have been revealed in the historical record. Although we will never know exactly how many Convention prisoners escaped or how many perished in American hands, those who reached British lines in the spring and

summer of 1783 were just thankful to be alive. None of the enlisted Convention prisoners who left journals or memoirs of their experience in confinement recorded their emotions upon finally gaining their freedom after nearly six years of captivity, but Ensign Anburey must have spoken for all when he recorded: "It is impossible to describe the emotions of joy depicted in the countenance of every one; when...we felt ourselves once more at liberty and safe out of the hands of barbarians."⁷⁶

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Saratoga is commonly known as the turning point of the war, but it was also a point of no return. Americans went to war in 1775 strong in the conviction that their cause was righteous, even providentially sanctioned, and they were adamant that their conduct during the conflict would reflect the nobility of their cause. When confronted by British violations of their vision of "civilized" warfare, they painted a picture in their print, prose, and oratory of stark contrast between the depravity and barbarity of their British enemy and the humanity and generosity of their own troops. This dichotomy was unsustainable. The British repeatedly demonstrated that the rules that governed their actions in a European war were not applicable in the American rebellion. If that was true, then why should the revolutionaries hold themselves to a higher standard? Continually confronted by British transgressions of the norms of war as they understood them, and frustrated in their attempts to stem the war's violence through proportional retaliation, a

⁷⁶ Henry J. Retzer, "The Hessian POWs in Reading Revisited," *The Historical Review of Berks County*, vol. 66, no. 4 (Fall, 2001), 158-160, 159; Doblin and Lynn, trans., "A Brunswick Grenadier," 443; Johann Ewald, *Diary of the American War: A Hessian Journal*, trans., and ed., Joseph P. Tustin (New Haven: Yale University Press, 1979), 349; Houlding and Yates, "Corporal Fox's Memoir of Service," 166; For the identities of the British prisoners known to have escaped or attempted escape, see Sampson, *Escape*, Appendix 5. Like most Convention officers, Anburey was exchanged in September 1781. The enlisted soldiers who served under him remained in American hands until April 1783. Anburey, *Travels*, 2:528.

growing number of revolutionary Americans came to demand retribution on a grand scale. When the fortune of war placed General Burgoyne's army in their hands, they finally had an opportunity to exact the vengeance they so desired. To relinquish that opportunity for the purpose of upholding abstract notions, such as a general's honor or the public faith, was insufferable. Viewed from this angle, Congress's nullification of the Convention of Saratoga was not a unilateral decision grounded in rational calculation of national self-interest, but instead a reflection of a pervasive shift in popular American conceptions of the conduct of war. As one New England columnist phrased it, Americans were "fired with the resentment of accumulated injuries" and "wearied with the long exercise of a humane conduct, which has only been rewarded with barbarity and insult." They demanded a radical act of unforgiving retaliation. In suspending the Convention, Congress heeded their request: officially confirming that the rules of the game had changed. Yet neither Congress nor the American populace at large was prepared for the violent ramifications of these changes. By inaugurating a war of retribution, Congress had launched its constituents on a path of escalating violence and destruction unimaginable to even the most radical revolutionary in 1778. Once opened, the Pandora's box of vengeance would not be so easily closed.⁷⁷

⁷⁷ *New-England Chronicle*, June 25th, 1778.

Chapter Five: The Vengeance of War

Surveying the besieged city of Charleston, South Carolina in early May 1780, British General Sir Henry Clinton was in the mood to be magnanimous. For weeks his army had slowly, methodically, but inexorably invested the rebel stronghold. An ardent student of the art of war and a veteran of the European theatre of the Seven Years' War, Clinton, unlike his predecessor and rival Sir William Howe, was determined to conduct his operations by the book; he would not risk battle, even with rebels, if it could be avoided. Despite mutterings from many in his army critical of the torpidity of his advance on the city, Clinton's gradual and deliberate siege had worked. With their line of retreat now cut off, and their food supply dwindling, the Americans had no choice but to give up the town. When he received word on May 11 that the American commander, the jocular and rotund Massachusetts militiaman turned major general Benjamin Lincoln, sought to surrender his army of nearly six thousand men, Clinton was relieved. He would not have to hurl his battalions of British and Hessian troops at the city's defenses. For the price of fewer than eighty British lives, Clinton would seize the most populous and prosperous city south of Philadelphia, capture the only American army between him and Washington, and erase the shame of his abortive 1776 attack on the city. If his superiors in London were correct, Clinton's victory would pave the way for the complete subordination of the southern colonies to the king's will. Deprived of the wealth and resources of the south, the revolutionary cause would wither on the vine. With total

victory in sight, now was not the time for pettiness or punishment, now was the time to demonstrate British benevolence.¹

Magnanimity was the last thing the American garrison expected from their British besiegers. Lincoln, with the advice of his officers and the political leadership of the city, had twice rejected Clinton's offers to negotiate Charleston's surrender, declaring in early April that he would defend the town "to the last Extremity." Aware of the British treatment of the garrison of Fort Washington in 1776 and of the horrors endured by American soldiers and sailors aboard British prison hulks, many in the garrison agreed with Lincoln's determination. South Carolina's lieutenant governor, Christopher Gadsden, proudly boasted that the "the Militia[men] were willing to Live upon Rice alone rather than give up the Town upon any Terms."²

Incessant British bombardment and meager rations soon persuaded many defenders to abandon their former resolve. Hundreds of citizens and militiamen petitioned Lincoln to end their misery by seeking whatever terms for surrender he could obtain. From the standpoint of the exhausted defenders, indefinite confinement on a prison ship looked preferable to starvation amid the bombed-out ruins of their once vibrant city. Saddled with a citizen militia that had "thrown down their Arms," Lincoln had little choice but to throw himself on the mercy of the British conqueror. Having

¹ Most scholars who have examined Clinton's siege of Charleston have suggested that he treated the garrison with severity. Andrew O'Shaughnessy in his recent study claimed that "Clinton humiliated his opponents by not granting the full honors of war, which would have permitted them to surrender with their flags flying and drums beating as an acknowledgment of their honorable resistance. The British were still seething over the failure of the Continental Congress to honor the terms granted Burgoyne at the Saratoga Convention." Had O'Shaughnessy viewed the surrender terms within the context of Lincoln's earlier obstinate refusal to accept the terms on April 10th and May 8th, he would have come to a different conclusion. O'Shaughnessy, *The Men Who Lost America*, 231. William B. Willcox, ed., *The American Rebellion: Sir Henry Clinton's Narrative of His Campaigns, 1775-1782* (New Haven: Yale University Press, 1954), 171; Gruber, *John Peebles' American War*, 335.

² Lincoln to General Clinton and Admiral Arbuthnot. April 10th, 1780. Charlestown. Franklin B. Hough, *The Siege of Charleston...* (Albany: J. Munsell, 1867), 89; Lilla Mills Hawes, ed., *Lachlan McIntosh Papers in the University of Georgia Libraries* (Athens: University of Georgia Press, 1968), 104.

already rejected Clinton's very generous terms for capitulation on 10 April and 8 May, Lincoln could hope to save little besides the lives of his soldiers. He sent a messenger towards the British lines requesting to surrender the city under the terms Clinton had earlier offered, but he was not optimistic. This was no longer a negotiation. Clinton could demand and receive whatever he wanted.³

Much to the relief of the beleaguered city's garrison, the British general acquiesced to Lincoln's request. Instead of demanding unconditional surrender, Clinton allowed the Continental soldiers and sailors, "with their Baggage," to remain "Prisoners of War until exchanged." The officers were even permitted to keep and wear their swords. Unlike General Howe who had denied the garrison of Fort Washington prisoner-of-war status, preferring to treat them as rebels in arms, Clinton promised that the American regulars would be afforded all of the customary European protections of that status. They would be "supplied with good and wholesome Provisions, in such Quantity as is served out to the Troops of his Britannic Majesty" while they awaited exchange for the soldiers of the Convention army in American captivity. Lincoln's militia posed a thornier problem for the British commander. As citizens in arms they were not protected under the contemporary European laws of war. Nonetheless, in an unprecedented gesture of leniency for a British general during the American war, Clinton agreed to allow the militiamen "to return to their respective Homes, as Prisoners upon Parole." By agreeing not to bear arms against the British government until exchanged, the militia was free to leave. Clinton even promised that their paroles would "secure them from being molested

³ Carl P. Borick, *A Gallant Defense: The Siege of Charleston, 1780* (Columbia: University of South Carolina Press, 2003), 216; David B. Mattern, *Benjamin Lincoln and the American Revolution* (Columbia: University of South Carolina Press, 1995), 107; Lincoln to Washington. August 11th, 1780. Hingham, SC. *Founders Online*, National Archives of the United States, 2014. <http://founders.archives.gov/>, hereafter cited as *Founders Online*.

in their property by the British Troops." Unprepared for such generosity from an enemy that had consistently refused to treat Americans as legitimate combatants in the past, the former president of the Continental Congress, Henry Laurens, whose own son was a prisoner in the city, was perplexed by the apparent British volte-face. The surrender agreement, which Laurens called "a strange kind of Capitulation," seemed too good to be true. Given Congress's continued detention of the Convention army, and Lincoln's obstinate refusal to surrender even after the town had been completely surrounded, why would Clinton grant terms that were "full as good" as Laurens could ever have hoped?⁴

Clinton's actions were not merely the merciful caprice of a conqueror; they reflected his hope that the war in the south would be different. Believing most southerners were war-weary and open to reconciliation with Britain, Clinton was determined to wage the campaign with benevolence rather than brutality. As he explained to Lord George Germain, "Whatever severe justice might dictate on such an occasion, we resolved not to press to unconditional submission a reduced army, whom we hoped clemency might yet reconcile to us." He enjoined his subordinates "from offering violence to innocent and inoffensive people," and ordered them to "protect the aged, infirm, the women, and children of every denomination from insult and outrage." The British general had no desire to repeat Howe's mistakes. He would not abandon his loyalist supporters, but neither would he allow their petty grudges to interfere with his plans to bring peace to the province. Empowered by the king to offer a "free and general Pardon" to all former rebels, Clinton set out to pacify the south not conquer it. Clinton's

⁴ Hough, *The Siege of Charleston*, 99, 105; Laurens to the S.C. Delegates in Congress. Wilmington, NC. May 23rd, 1780. *PHL*, 15:298. According to a New Jersey newspaper, the terms were "very honourable; such as the Troops of the greatest Nation need not be ashamed of." Transcribed in Hough, *Siege of Charleston*, 171.

vision for the war in the south was nothing short of a repudiation of the policy and practice of his predecessor.⁵

Less than a year later in February 1781, Moses Hall, a twenty-one year old militiaman, witnessed the murder of six loyalist prisoners of war in the North Carolina interior. The men, who had been captured by Continental troops earlier in the day, were "hewed to pieces with broadswords" by Hall's fellow militiamen. Although not officially sanctioned by the revolutionary government, the militiamen's actions were consonant with the October 17th, 1780 standing orders of the North Carolina Board of War to "treat them [loyalists] with the Severity they deserve." The sanguinary scene initially horrified Hall, who recalled feeling "overcome and unmanned by a distressing gloom" as he contemplated "the cruelties of war." Feelings of shock and regret "for the slaughter of the Tories" were soon subsumed by desire for vengeance when Hall came upon the body of "a youth about sixteen" who had been bayoneted by loyalist troops and left for dead. Radicalized by the violence of civil war, Hall "desired nothing so much as the opportunity of participating in their [the loyalists'] destruction." Far from unique, Hall's recollections of his military service during the campaigns of 1780 and 1781 are emblematic of the vehemence and violence with which both sides prosecuted the war in the south after the fall of Charleston. Hardly the restrained conflict Clinton had

⁵ Clinton to Germain. May 13th, 1780. Charles Town. Transcribed in Banastre Tarleton, *A History of the Campaigns of 1780 and 1781, in the Southern Provinces of North America...* (Dublin: 1787), 44; Clinton to Patrick Ferguson. May 22nd, 1780. Charlestown. Clinton Papers, Volume 100, item 15. Clements Library; Hough, *Siege of Charleston*, 25; Willcox, ed., *The American Rebellion*, 171; Lord Germain approved of Clinton's policy. He informed the General James Robertson that he hoped that the "success at Charleston and the generous terms granted to the garrison" would have "happy effects." Germain to Robertson. July 5th, 1780. Whitehall. K.G. Davies, ed., *Documents of the American Revolution, 1770-1783* (Dublin: Irish University Press, 1978), 21 vols., 18:115. John Shy noted the British policy of initial conciliation in the south. He attributed its failure to a combination of British abuses and civil war. Shy, *A People Numerous and Armed*, 212-3.

envisioned, the years 1780-82 witnessed some of the most horrific acts of cruelty perpetrated during the war.⁶

Noting the violence of this era is hardly novel, historians and Hollywood have long recognized the destructiveness of this phase of the war. Seeing it as an aberration, a peculiarly violent coda to an otherwise restrained conflict, scholars have pointed to the ethnic composition of the southern colonies, long standing political disputes between the eastern planter elite and the backcountry yeomanry, the inherent violence of a social system predicated upon human bondage, the widespread use of Native American tactical practices, and even the cultural legitimacy of retributive justice to explain why the war in the south, to borrow Wayne Lee's phrase, "spiraled out of control." While not denying the importance of these factors in escalating the violence of the southern campaigns, this chapter stresses continuity not disjuncture. By examining the treatment of enemy prisoners during these years within the context of prior British and American practice, the war in the south emerges not as a drastic departure from a limited European-style conflict but as the intense culmination of a process of escalating violence that had begun in the summer of 1776. Years of British abuses, exaggerated by the revolutionary press and exacerbated by civil war, had galvanized popular support for a war of vengeance. While some members of the revolutionary elite, such as George Washington and Nathanael Greene, strove to temper popular outrage, they were few and far between in the last years of the war. By the summer of 1782, many Americans had come to agree with the *Boston*

⁶ North Carolina Board of War to Colonel John Luttrell. October 17th, 1780. *CSRNC*, 14:427; Revolutionary War Pension Application of Moses Hall. W10105, National Archives. Transcribed by Will Graves. <http://revwarapps.org/w10105.pdf>. Throughout this chapter, I rely heavily on the Revolutionary War Pension Applications to tell the story of the civil war in the south. While these applications were written years after the war by men with the benefit of hindsight, they rarely try to hide the war's violence or their role in the persecution of enemy prisoners. Unlike elite revolutionaries who sought to forget the war's violence after 1783, the ordinary Americans who waged the war were proud of their part in the conflict. Few were willing to apologize for their role in the escalation of the war's violence.

Evening-Post's declaration that "Humanity to an Englishman is treason against America."⁷

This chapter begins by examining the breakdown of Clinton's policy to pacify the south. British violations of the capitulation of Charleston, combined with both real and imagined British atrocities, enraged the formerly passive population of the backcountry of North and South Carolina, inducing them to take up arms against their loyalist neighbors and British forces alike. The internecine conflict that developed in the southern backcountry looked nothing like the revolutionaries' earlier vision of virtuous and limited war waged in defense of abstract principles. Revenge not proportional retaliation was the order of the day. The horrors of the southern campaigns were not limited to the work of backcountry ruffians possessed of malleable loyalties and a penchant for plunder. Continental and British regular army units were also marred by the murder and mistreatment of enemy prisoners. While officially discouraged, British and

⁷ While Carl Borick has recently written an excellent history of the American prisoners captured at Charleston in 1780, the larger history of the prisoners taken during the southern campaigns of 1780-82 has never been analyzed. Scholars of American treatment of enemy prisoners have all but ignored the war in the south. Carl Borick, *Relieve Us of This Burthen: American Prisoners of War in the Revolutionary South, 1780-1782* (Columbia: University of South Carolina Press, 2012). The war in the south has had many historians, but all have relied primarily on nineteenth-century narratives, which are of dubious accuracy, to tell their story of violent disjuncture from the rest of the war. Viewing the southern campaigns as distinctive, rather than as a culmination of an ongoing process of violent escalation, these works have downplayed both the violence of the war in the north and the violence enacted by the regular forces of Great Britain and the United States during the campaigns in the south. See for instance, John S. Pancake, *This Destructive War: The British Campaign in the Carolinas, 1780-1782* (Tuscaloosa: University of Alabama Press, 1985), W. Robert Higgins, ed., *The Revolutionary War in the South: Power, Conflict, and Leadership* (Durham: Duke University Press, 1979), Robert S. Lambert, *South Carolina Loyalists in the American Revolution* (Columbia: University of South Carolina Press), Dan L. Morrill, *Southern Campaigns of the American Revolution* (Baltimore: The Nautical & Aviation Publishing Company of America, 1993), Walter Edgar, *Partisans and Redcoats: The Southern Conflict that Turned the Tide of the American Revolution* (New York: Perennial, 2001), Grenier, *The First Way of War*, chapter 5, James Webb, *Born Fighting: How the Scots-Irish Shaped America* (New York: Broadway Books, 2004), Lee, *Crowds and Soldiers*, John Richard Alden, *The South in the Revolution, 1763-1789* (Baton Rouge: Louisiana State University, 1957). John Buchanan, *The Road to Guilford Courthouse: The American Revolution in the Carolinas* (New York: John Wiley & Sons, 1997), James Swisher, *The Revolutionary War in the Southern Backcountry* (Gretna, LA: Pelican, 2008), Ronald Hoffman, Thad W. Tate, and Peter J. Albert, eds., *An Uncivil War: The Southern Backcountry During the American Revolution* (Charlottesville: University of Virginia Press, 1985); *Boston Evening-Post*, July 27, 1782.

American military officials turned a blind eye to violations that would have elicited severe reproach at the war's commencement. The arrival of Washington and the French army of the Count de Rochambeau in Virginia in fall 1781 reintroduced a veneer of restraint to the conflict. The allies granted General Charles Cornwallis's army terms for capitulation at Yorktown that were every bit as generous as those Clinton proffered Lincoln at Charleston. These terms proved instantly unpopular with revolutionary Southerners who were fixated on revenge. With the forces of France removed, Congress responded to its constituents' call and consigned the Yorktown prisoners to an arduous confinement in the Pennsylvania interior where they suffered from deprivation, disease, and exposure for the remainder of the war. As with General Burgoyne's army, Congress remained unwilling to consider an exchange. The prisoners' cries went unanswered. By war's end, Congress, like an anonymous correspondent in the *Boston Evening-Post*, had come to believe that "towards the nation of Britain, as citizens of America, you owe nothing but revenge."⁸

"Nothing will serve these people but fire and sword": Tarleton's "Quarter" and the Failure of the British Policy to Pacify the South

When Lincoln's Continental regiments filed out of their entrenchments on 12 May to lay down their arms and surrender their colors, their captors were shocked by the Americans' appearance. Their faces gaunt from months of deprivation, and their uniforms soiled, threadbare, and torn, the prisoners nonetheless evinced "more appearance of discipline than" one of Clinton's Scottish officers had "seen formerly" from American troops. These men were not the ill-disciplined rabble the British had

⁸ *Boston Evening-Post*, July 27, 1782.

confronted in the first years of the war; they were professionals who deserved to be treated as such. Though defeated, the Continentals had much for which to be proud. Having skillfully fortified the city and defended it against the combined might of Britain's army and navy for months, the soldiers could rest assured that they had done their duty and had surrendered with honor. General Moultrie remembered that the British officers congratulated their prisoners on having "made a gallant defence [*sic*]." Instead of the jeers and jabs endured by the garrison of Fort Washington, Charleston's defenders marched out unmolested, accompanied only by the shrill melodies of their field musicians playing a "Turkish march." Impressed by the respectful silence of their adversaries, the troops returned to their barracks, and the officers to their quarters, prepared to enter captivity.⁹

Once his troops occupied the city, General Clinton had to decide what to do with the prisoners. He could allow the Continental soldiers to remain in their barracks under a lax confinement or he could order them aboard troop transports bound for New York. The articles of capitulation had not specified the mode or location of their confinement. Were Clinton to send the men to New York, the city's commander, General Knyphausen, would have no choice but to confine the men aboard prison ships. Clinton was well aware of the insalubrious conditions on board the hulks, and he had no intention of sending his recent captives to their deaths; the prisoners were far too valuable. For years

⁹ Gruber, *John Peebles*, 372. Hessian Captain Johann Ewald noted that "the garrison consisted of handsome young men whose apparel was extremely ragged, and on the whole the people looked greatly starved." Ewald, *Diary of the American War*, 238. A Hessian officer believed the city's fortifications to be "as fine and as well constructed as they can possibly be." Quoted in Borick, *A Gallant Defense*, 221; William Moultrie, *Memoirs of the American Revolution...* (New York: David Longworth, 1802), 2 vols., 2:108. Under the articles of capitulation, the Clinton denied the garrison the full honors of war which would have entitled the Americans to the privilege of playing a British piece. The Hessian Platte Grenadier Battalion Journal. Bruce Burgoyne, trans., and ed., *Enemy Views: The American Revolutionary War as Recorded by Hessian Participants* (Westminster, MD: Heritage Books, 1996), 393; Moultrie, *Memoirs*, 2:108; Borick, *A Gallant Defense*, 220-21.

Congress had denied to exchange the men of the Convention army for American privateers in British custody, but now Clinton had enough American troops to redeem the survivors of Burgoyne's unfortunate force. The timing could not be better. After France's entry into the war in 1778, Lord Germain had required Clinton to shift a sizable percentage of his forces to the West Indies to protect Britain's lucrative sugar islands. Reinforcements were promised, but London had not been forthcoming. Clinton needed more soldiers. Augmenting his southern army with the Convention troops would allow him to shift a significant portion of his command to New York, where he could begin operations against Washington. While he prepared to negotiate the Continental prisoners' exchange, Clinton allowed them to remain in the comfort of their barracks. True to his word in the articles of capitulation, Clinton ordered the men provided with wholesome rations. After the war, an American surgeon with the prisoners, Dr. Peter Fayssoux, claimed that the troops had no "material cause of complaint." No one in Charleston expected them to remain in confinement for long.¹⁰

Soon after the Continental troops surrendered, Clinton's officers began the arduous process of administering paroles to the city's militia. Comprising over half of the garrison, the militia did not present as martial an appearance as their Continental brethren. One British officer described them as "*poor Creatures*" who "began to creep out of their Holes" following the surrender. Eager to safeguard their property, thousands of civilians, both those who had been in arms and those who had refused to defend the

¹⁰ O'Shaughnessy, *The Men Who Lost America*, 223-228; Borick, *Relieve Us*, 4; Fayssoux to Dr. David Ramsay. March 26th, 1785. Charlestown. Moultrie, *Memoirs*, 2:398; Borick, *Relieve Us*, 7. On May 16th, John Lewis Gervais informed Henry Laurens of the surrender and Clinton's wish for the garrison "to be exchanged for Burgoyne's [*sic*] Army." Gervais to Laurens. May 16th, 1780. Santee, SC. Laurens promptly apprised the South Carolina delegates in Congress that the "Continental & Charles Town privates prisoners of War [were] exchangeable for Burgoyne's fragment." Laurens to the S.C. Delegates in Congress. May 23rd, 1780 Wilmington, NC. *PHL*, 15:296, 298.

city, came forward to claim their paroles. American General William Moultrie recalled seeing "the aged, the timid, the disaffected, and the infirm, many of them who had never appeared during the whole siege" come forward "to enrol [*sic*] on a conqueror's list." Moultrie believed that the people were "tired of war" and keen to accept Clinton's "pleasing offers, in hopes they would have been suffered to remain peaceably and quietly at home with their families, and to have gone on with their business undisturbed, as before." It was a very tempting offer, and thousands of Charlestonians came forward. Clinton was overjoyed by the turnout. He informed Germain, "with the greatest pleasure," that "there are few men in South Carolina who are not either our prisoners or in arms with us." It looked as if his policy of benevolence had worked. With their paroles in hand, most of the militiamen departed the city, pleased to be rid of war.¹¹

Possessed of Charleston, the British general now sought to expand his reach into the countryside. Fearing that his "success at Charles Town—unless followed in the Back Country—will be of little avail," Clinton ordered his second in command, Lieutenant General Charles Earl of Cornwallis, to consolidate royal authority in the colony by establishing fortified positions in the backcountry and by administering oaths of allegiance to the populace. Armed with promises of pardon, Cornwallis's troops fanned out in the South Carolina hinterlands. Clinton was confident that South Carolinians were "not only friendly to Government" but willing "to take up arms in its support."¹²

¹¹ Hough, *Siege of Charleston*, 130; Moultrie, *Memoirs*, 2:109, 209, 210; Clinton to Germain. June 4th, 1780. Charlestown. Davies, *Documents*, 18:102.

¹² Clinton to Cornwallis. May 20th, 1780. Charleston, SC. Ian Saberton, ed., *The Cornwallis Papers: The Campaigns of 1780 and 1781 in the Southern Theatre of the American Revolutionary War* (East Sussex, England: Naval and Military Press, 2010), 6 vols., 1:49, hereafter cited as *Cornwallis Papers*; O'Shaughnessy, *The Men Who Lost America*, 231; Clinton to Cornwallis. May 29th, 1780. Charleston, SC. *Cornwallis Papers*, 1:54.

Clinton was not wholly mistaken. In the weeks following Charleston's fall, thousands of loyalists flocked to his troops for protection and for the opportunity to chastise their rebel neighbors. For years they had endured persecution at the hands of the rebel government, but now the time had come for revenge. As one of Clinton's aides informed him, the loyalists were "clamorous for retributive Justice" and they would not rest "until those People whose persecuting spirit hath caused such calamities to their fellow subjects shall receive the punishment their Inequities deserve." Seizing the opportunity, many loyalists took matters into their own hands. According to an officer in Clinton's army, a party of "friends to Government" rounded up "forty odd Rebels" in retaliation for seventy of their own who had been "condemned to be hanged" in 1779. The loyalists, who had been "obliged to hide in Swamps & Caves to keep from Prison themselves," now gladly embraced "the opportunity to retaliate." Their quest for retribution hindered by Clinton's orders "to restrain the militia" from acts of wanton violence. His entire plan for pacifying the south rested on forgiveness for past transgressions. But clemency was not what South Carolina loyalists had in mind. The sight of unrepentant rebels, going about their daily routines protected in their person and property by British paroles, galled the loyalists. In their opinion, vengeance should be swift.¹³

The loyalists could take comfort at least from the knowledge that many in Clinton's army disagreed with their commander's policy of benevolent pacification.

¹³ James Simpson to Clinton. May 15, 1780. Charles Town. Alan S. Brown, "James Simpson's Reports on the Carolina Loyalists, 1779-1780," *The Journal of Southern History*, Vol. 21, No. 4 (Nov., 1955), 513-519, 519; Wade S. Kolb III and Robert M. Weir., eds., *Captured at Kings Mountain: The Journal of Uzal Johnson* (Columbia, SC: University of South Carolina, 2011), 19; Clinton to Major Patrick Ferguson. May 22nd, 1780 Charleston, SC. See also, Cornwallis to Tarleton. April 25th, 1780. St. Thomas's Church, SC. *Cornwallis Papers*, 1:105, 25.

Paroling rebel officers was bad enough, but permitting common militiamen to return home on the bare promise of neutrality was egregious. These were not gentlemen who could be depended upon to keep their word. Scottish Captain John Peebles worried that there would be few prisoners left to exchange because "all the Militia &ca. get their parole & the inhabitants of the Town their property." Constrained only by their promise, the militia would be prime subjects for rebel recruiters should Washington send another army southward. Hessian officer Johann Ewald believed Clinton's decision to parole the militia would "cost the English dear, because I am convinced that most of these people will have guns in their hands within a short time." Lieutenant Colonel Alexander Innes simply referred to Clinton's terms as "the cursed capitulation of Charles Town." To these men, the rebellion had to be crushed not conciliated.¹⁴

One such hardliner was the twenty-six year old lieutenant colonel Banastre Tarleton. Probably the ablest, and certainly the most dashing, cavalry commander of the war, Tarleton was already known for his fearlessness and ferocity in battle, but it was in the south that he gained a reputation for brutality. The seeds of that reputation were planted at the end of May when Tarleton and the green-jacketed troops of the loyalist British Legion caught up with the last remaining American force in the Carolinas in the border region between the two states known as the Waxhaws. The British force had advanced over a hundred miles in just over two days in order to intercept the Virginia Continentals. Confident in his superior numbers, the American commander, Colonel Abraham Buford, refused Tarleton's summons to surrender under the terms offered Charleston's garrison. What happened next remains clouded in controversy. Sources on

¹⁴ Gruber, *John Peebles*, 373; Ewald, *Diary*, 242. Saberton chose to italicize "cursed" but in the original letter, Innes underlined the word. Innes to Cornwallis. June 8th, 1780. Congaree River, SC. *Cornwallis Papers*, 1:111.

both sides agree that upon Buford's refusal, Tarleton's mounted troopers advanced swiftly on the line of 350 American infantrymen. The Virginians withheld their fire until it was too late; the dragoons were soon among them. Some of Buford's men fled while others begged for their lives. As one of Buford's officers rode forward with a white flag of surrender, Tarleton was thrown from his horse. Years following the battle, Tarleton claimed that his men believed "they had lost their commanding officer, which stimulated the soldiers to a vindictive asperity not easily restrained." One of Buford's officers, Colonel H. Boyer remembered the events differently. In his account, American musketry dismounted Tarleton during the surrender negotiations. Furious, the British colonel ordered his men to continue the assault. As Boyer phrased it, "the rage of the British soldiers, excited by the continued fire of the Americans while a negotiation was offered by the flag, impelled them to acts of vengeance that knew no limits." Whatever the cause, the results were the same. In Tarleton's words, "slaughter was commenced." One hundred and thirteen Americans were killed outright and a further one hundred and fifty were wounded.¹⁵

To the British, Buford's defeat was a "complete success," but to the Americans it was a "massacre." Rumors that Tarleton's men had cut down the Virginians after they had surrendered soon began to circulate. North Carolina Councilman Thomas Person informed Congressman Thomas Burke that "'tis Said [the British Legion] killed at least 200 men in a most Cruel & Inhumane Manner, after piling their Arms" in surrender. It

¹⁵ Tarleton, *A History of the Campaigns*, 32; Alexander Garden, *Anecdotes of the American Revolution...* (Charleston: A.E. Miller, 1828), 138; Tarleton, *A History of the Campaigns*, 31; Anthony J. Scotti, *Brutal Virtue: The Myth and Reality of Banastre Tarleton* (Westminster, MD: Heritage Books, 2007), 173-178. See also Edgar, *Partisans and Redcoats*, 56-57 and J. Tracy Power, "'The Virtue of Humanity Was Totally Forgot': Buford's Massacre, May 29, 1780," *The South Carolina Historical Magazine*, Vol. 93, No. 1 (Jan., 1992), 5-14.

was not long before American newspapers picked up the story. The Providence, Rhode Island *American Journal* claimed that "instead of meeting with that reception which the feelings of humanity dictates, or that clemency which our conquered foes have ever received at our hands, no quarter was given" to Buford's surrendering soldiers. The *Massachusetts Spy* accused Tarleton of "the most inhuman acts of cruelty that were ever heard of, viz. in the massacre of the gallant, amiable Col. Buford and 170 of his corps." Although British accounts did not use the term "massacre," Tarleton's official report of the action, which was widely published, seemed to confirm the revolutionaries' version of events. "He had come up with the Remains of the Rebel Force to the Southward...and had attacked and cut them to Pieces." The American reading public knew exactly how to interpret Tarleton's words; the British had not reformed their barbarous ways, and their promises of conciliation and generous treatment were not to be trusted. Appalled by the violence, sixteen-year old Eliza Wilkinson of Charleston decried British "cruelties and oppressions," believing that her countrymen would be roused by "the spirit of resentment" to oppose the occupiers. She could not have been more prophetic. Throughout the backcountry settlements militia companies began to organize. Observing the effects of revolutionary propaganda first hand, a British officer lamented: "It is inconceivable the damage such reports has done." Back in Charleston, Clinton was blissfully unaware of the Carolinians' rising resentment of the British occupation. Intent on savoring his victory, Clinton decided to return to New York, but not before making a decision that would fundamentally alter the course and character of the war in the south.¹⁶

¹⁶ Tarleton, *A History of the Campaigns*, 32; *Massachusetts Spy*, September 14th, 1780; Thomas Person to Thomas Burke. June 21st, 1780 Goshen, NC. *CSRNC*, 14:858; *American Journal*, August 16th, 1780; *Massachusetts Spy*, September 14th, 1780. For Tarleton's after action report see *Royal Gazette*, June 17th, 1780, *New-York Gazette*, June 19th, 1780; *Letters of Eliza Wilkinson During the Invasion and*

On June 3, 1780, believing he had pacified South Carolina, Clinton issued a proclamation invalidating article four of the treaty of capitulation of Charleston, which had paroled the militia to their homes. From henceforth all who had surrendered under the terms of the treaty were "freed and exempted from all such Paroles." With their paroles removed, the men were "restored to all the Rights and Duties belonging to Citizens and Inhabitants" of Great Britain. Acting on spurious intelligence of the strength of loyalist support in the Carolinas, Clinton abrogated the militiamen's paroles in the belief that they would rally to the royal standard and provide the nucleus of a new royal militia that would maintain the peace he had won with his victory at Charleston. With the defense of the province in the hands of the militia, Clinton could ferry the majority of his army back to New York. To further encourage the militia to do their duty, Clinton added a not so thinly veiled threat to his proclamation. All South Carolinians "who shall afterwards neglect to return to his Allegiance and to his Majesty's Government, will be considered as Enemies and Rebels to the same, and treated accordingly." By 1780, South Carolinians were well aware of how the British treated rebels. Although it had not been his intent, Clinton had drawn a line in the sand; the opportunity for passive neutrality had passed. Cornwallis realized at once the error of his commander's actions. As he told one of his officers, Lieutenant Colonel Nesbit Balfour, "they are not just what I should have dictated." He feared the proclamation would excite neutrals into armed opposition against the crown. Nonetheless, Clinton's proclamation freed the earl to take a more aggressive stance against those who opposed British rule in the south. Soon after issuing

Possession of Charlestown, S.C. by the British in the Revolutionary War, Caroline Gilman ed., (New York: Samuel Colman, 1839), 89; Edgar, *Partisans and Redcoats*, 66. The British officer, George Turnbull, reported that "the rebels [*sic*] have propagated a story that we seize all their young men and send them to the Prince of Hesse." George Turnbull to Cornwallis. June 15th, 1780. Rocky Mount. *Cornwallis Papers*, 1:139.

his proclamation, Clinton returned to New York, leaving Cornwallis in command of the southern theatre. Cornwallis promptly informed his inspector of militia, Major Patrick Ferguson, of his intentions to pursue a "plan of imprisoning those who have rendered themselves obnoxious by their cruelty and persecution of our friends [loyalists]." The time for conciliation was over.¹⁷

Predictably, South Carolinians were outraged. Clinton had promised them peace and neutrality, but by reneging on his word, he now forced them back into the war. John Weldon is typical of a South Carolina militiaman who had seen enough of war and just wanted to go home. He had been "so much injured" in earlier campaigns that he was rendered "unfit for service." Nevertheless, when Clinton besieged Charleston, he had rushed to defend the beleaguered capital. He was too late, the city had fallen. Arrested but "dismissed on parole and permitted to return home," he had no intention of violating his parole and returning to arms. But after the June 3rd proclamation, loyalist troops gave Weldon a choice: "he must deliver himself up [for loyalist militia service] or join the Enemy." For a man who had fought and bled for the revolutionary cause, the choice was simple. "He broke his parole...and marched to and joined" a band of revolutionary militia under the command of General Thomas Sumter. Enraged by Clinton's duplicity and Tarleton's brutality, South Carolinians like Weldon took up arms in droves. These loosely organized bands of militia wasted no time before attacking British and loyalist forces: first at Ramsour's Mill on 20 June and then at Williamson's Plantation on 12 July. In both actions the revolutionaries inflicted devastating defeats on the colony's embryonic

¹⁷ Hough, *Siege of Charleston*, 183; Cornwallis to Balfour. June 13th, 1780. Camden, SC. *Cornwallis Papers*, 1:88; Cornwallis to Ferguson. June 16th, 1780. Camden, SC. *Cornwallis Papers*, 1:109; Jim Piecuch, *Three Peoples, One King: Loyalists, Indians, and Slaves in the Revolutionary South, 1775-1782* (Columbia: University of South Carolina Press, 2008), 182-83; Borick, *Relieve Us*, 86-7.

loyalist militia. Cornwallis feared that the defeats would "much encourage the enemy." If he did not take action soon, the entire countryside would be in open rebellion.¹⁸

Lord Cornwallis was not an immoderate man, but he was a man of action. Like both Howe and Clinton, Cornwallis had not been enthusiastic about the war in America, but a strict sense of duty and more than a modicum of ambition had compelled him to defend the king's claim to the colonies. First under Howe and later Clinton, Cornwallis had pursued the revolutionary forces in the north with a sense of doggedness and alacrity unparalleled by any of Britain's senior officers in America. Believing he alone was capable of ending the rebellion, Cornwallis wanted Clinton's job. Since the beginning of the southern campaign, he had been critical of Clinton's approach to command. In the earl's opinion, compassion and generosity had failed to quell the rebellion; the time had come to "punish severely" those who continued to advocate rebellion after Charleston's surrender. Now in independent command of the southern army, Cornwallis's first step was to "seize all violent and persecuting rebels and send them directly on parole" to the remote Sea Islands of South Carolina where they could do little harm to the royal cause. Dozens of Charlestonians were dragged from their homes and forced into exile. Those who were "very notorious for acts of cruelty" were sent under guard to the Provost's prison in Charleston. To further deter rebellion, Cornwallis made it known that in future any rebel who broke his parole would "instantly be hanged without any form of trial."¹⁹

¹⁸ John Weldon pension application file. Pension number S32053, National Archives of the United States. For similar accounts see James Dickson, pension number R2942, Philip Gruber, pension number S21778, and Arthur Parr, pension number S16219; Cornwallis to Clinton. July 15, 1780. Charleston, SC. *Cornwallis Papers*, 1:170. In his post war narrative of the campaign, Clinton admitted that he could not "disprove the evil consequences ascribed to" the June 3rd treaty. Clinton, *The American Rebellion*, 181.

¹⁹ Cornwallis to Clinton. August 29th, 1780. Camden, SC. *Cornwallis Papers*, 2:41; Cornwallis to Major James Wemyss. July 15th, 1780. Charleston. *Cornwallis Papers*, 1:310. The islands were James, John's, Edisto, St. Helena, and Port Royal. *Cornwallis Papers*, 1:123.

The general's orders were music to the ears of a hardliner like Tarleton. From his point of view, "the insurgents, having taken certificates and paroles, don't deserve lenity" and "none shall they experience." In a statement that has forever cloaked the British soldier in infamy, Tarleton boasted, "I shall give these disturbers of the peace no quarter." From then on, "Tarleton's Quarter" was used by the revolutionaries, and their historians, to justify horrific acts of brutality against their loyalist and British foes. Although the atrocities committed by Tarleton and his legion have been exaggerated over the years, while those of their opponents downplayed or denied, there can be no doubt that Tarleton was prepared to use violence, and more importantly the threat of violence, to crush the rebellion. Citing "ancient scripture" as precedent, Tarleton intended to utterly devastate the south. If some loyal subjects or neutrals were plundered or punished in the process, so be it. As he informed Cornwallis, he would "discriminate with severity." Francis Marion, a revolutionary militia commander who was no stranger to violence, was horrified that "Colonel Tarleton has behaved to the poor Women, he has distressed, with Great Barbarity...he spares neither Whig nor Tory." For Tarleton, the path to victory was clear: "Nothing will serve these people but fire and sword." The British cavalier intended to be true to his word. With Tarleton in the vanguard of his army, Cornwallis confidently ignored both the lackluster loyalist turnout and the growing antipathy of the South Carolinians and pressed on with his campaign to subdue the south by force of arms.²⁰

²⁰ Tarleton to Cornwallis. August 5th, 1780. Lenew's Ferry, SC. *Cornwallis Papers*, 1:365. The early historian of the Revolution, David Ramsay described Tarleton's reputation in the wake of the battle of the Waxhaws: "This barbarous massacre gave a more sanguinary turn to the war. Tarleton's quarters became proverbial, and in the subsequent battles a spirit of revenge gave a keener edge to military resentments." David Ramsay, *History of the Revolution in South Carolina* (Charleston: W. J. Duffie, 1858), 192. For a similar take see Lyman C. Draper, *King's Mountain and Its Heroes: History of the Battle of King's Mountain...* (Cincinnati: Peter G. Thomson, 1881), 282. For more recent works that have

Contesting Cornwallis's advance northward was none other than General Horatio Gates: the American "hero of Saratoga." Against Washington's wishes, Congress had dispatched the veteran commander southward with a small contingent of Continental regulars to arrest the British juggernaut. By early August, Gates had succeeded in molding his mixed force of regulars and militia into a coherent army, but he blundered in his pursuit of Cornwallis. The two armies literally collided in darkness on the morning of August 16 near Camden, South Carolina. The resulting battle was a disastrous defeat for Gates, who fled the field in ignominy. Tarleton, whose dragoons played a critical role in cutting off the enemy's retreat, remembered that "rout and slaughter ensued in every quarter." Over seven hundred American soldiers fell into British hands that day. A British soldier with Cornwallis claimed that the American prisoners were "treated with civility" and forwarded to "Charleston under guard," but once arrived, they posed a significant problem for the British commandant of the city, Nesbit Balfour.²¹

Before Cornwallis had launched his invasion of the South Carolina backcountry, the earl had charged Balfour with overseeing the administration of the American prisoners in the city. Cornwallis had been confident that the men would soon be released through a general cartel of exchange, or at the very least provisioned by the American

explained (even excused) American atrocities by referencing "Tarleton's Quarter" see Ward, *War of the Revolution*, 2:742; Cynthia A. Kierner, *Southern Women in the Revolution, 1776-1800: Personal and Political Narratives* (Columbia: University of South Carolina Press, 1998), 17, and Edgar, *Partisans and Redcoats*, xvi, xvii, 71. For a highly persuasive exception to this trend see Picuch, *Three Peoples, One King*; Tarleton to Lt. Col George Turnbull. November 5th, 1780. *Cornwallis Papers*, 3:334; Tarleton to Cornwallis. August 5th, 1780. Lenew's Ferry, SC. *Cornwallis Papers*, 1:365. According to Marion, Tarleton "beat Mrs. Richardson, the Relick [sic] of General Richardson, to make her tell where I was." His terror tactics were working. Marion also noted that "the militia in our favor are yet very backwards in turning out, and in great Dread of Tarleton's Horse." Marion to Gates. November 9, 1780. Benbow's Ferry, SC. *PCC*, Item 154, 2:334; Tarleton to Lt. Col George Turnbull. November 5th, 1780. *Cornwallis Papers*, 3:334.

²¹ O'Shaughnessy, *The Men Who Lost America*, 257-8; Tarleton, *A History of the Campaigns*, 111; Borick, *Relieve Us*, 12; Oressa M. Teagarden and Jeanne L. Crabtree, eds., *John Robert Shaw: An Autobiography of Thirty Years, 1777-1807* (Athens, OH: Ohio University Press, 1992), 33.

commissary Captain George Turner. Regrettably for the American captives, by August, Congress had still not acquiesced to an exchange of Charleston's captive garrison for the Convention army and the oft-promised supplies had not been forthcoming.

Overwhelmed with enemy prisoners, and unable to provide them with the provisions, quarters, and medicines they sorely needed, Balfour despaired to Cornwallis that he found "the prisoners by no means an easy load." With "sickness and mortality" spreading among the garrison, Balfour had little choice but to confine the prisoners on board prison ships. He ordered six transport ships converted into floating prisons. The vessels soon became cesspools of filth and disease. A militiaman captured at Camden reported that "small pocks" [*sic*] was present on board the ships, taking the lives of "a Number of brave men." Without resupply from either London or Philadelphia, Balfour could do little to ease the prisoners' misery. Clearly pained by the prisoners' plight, Balfour lamented that "the rebell [*sic*] prisoners die faster than ever they used to desert."²²

As had been the case during the New York campaign, revolutionary propagandists laid blame for the prisoners' suffering not on Congress for its unwillingness to exchange the men or its inability to provide for them, but upon Cornwallis. A South Carolinian writing for the *Pennsylvania Packet* urged his fellow statesmen "to take vengeance" on the "perfidious foe...Cornwallis" for the "cruelties committed throughout your once flourishing state." Another correspondent, this time purporting to be an escapee from "a most cruel captivity, in Charlestown, South

²² Borick, *Relive Us*, 14. Washington agreed with Congress, he believed that "if motives of policy are ever to prevail over those of humanity, they seem to apply at present against a general exchange." Washington to Samuel Huntington. July 10th, 1780. *Founders Online*; Balfour to Cornwallis. October 22nd, 1780. Charleston, SC. *Cornwallis Papers*, 2:130; Petition of William Scott, quoted in Borick, *Relieve Us*, 17; Balfour to Rawdon. October 26th, 1780. Charleston, SC. *Cornwallis Papers*, 2:133; Borick, *Relieve Us*, 15-19.

Carolina," enumerated "the many cruelties and enormities that have been, and are now put in practice on our suffering brethren in South Carolina." Referring to Cornwallis as "the British NERO," he accused the general of the "direct violation of the most solemn articles of capitulation" by confining American prisoners with "British deserters, fellows under sentence of death, loaded with chains, Negroes, and every species of villainy, who hourly insulted them, with the epithet of dammed rebels" in a "a hellish dungeon" where "the smallpox, yellow fever, camp fever, and [the] itch" raged. In closing, he warned all Americans to "never expect lenity, nor even common humanity, at their [the British] hands." By this period in the war, revolutionaries everywhere had little cause to doubt his accusations or question his reasoning. Summarizing the temper of backcountry South Carolinians, an aide to General Gates claimed, "They breathe nothing but revenge, for the unheard-of cruelties committed upon our distressed people." Clinton's plan to pacify the south had failed. Southern loyalists, and their British protectors, would soon know the wrath of American vengeance.²³

"With little less than savage fury:" Prisoner Abuse in the Southern Backcountry

Having routed Gates and the American Southern army at Camden, Cornwallis concluded that the best way of securing his gains in South Carolina was to invade North Carolina, where he hoped to overawe the people with the celerity and ferocity of his advance. Cornwallis believed that with both Carolinas in British hands, the rebels would surely see that further resistance was futile. Before marching northward, Cornwallis informed Clinton in New York of his intention "to hang up all those militia men" who

²³ *Pennsylvania Packet*, August 21st, 1781; *New-Hampshire Gazette*, September 3rd, 1781; Extract of a letter from an officer of the state of Georgia and aide to Major General Gates, dated December 26th, 1780. *Connecticut Journal*, January 25th, 1781.

had deserted to the enemy." No mere threat, Cornwallis admitted that he personally ordered "several militia men to be executed." Many of his more zealous subordinates jumped at the opportunity to punish recalcitrant rebels as well. Loyalist Lieutenant Colonel John Harris Cruger delighted in "sending out parties of horse to pick up the traitorous [*sic*] rebels...who will be roughly handled, some very probably suspended [hanged]" for their crimes. Another loyalist officer noted that "twenty seven of them [American prisoners] were hanged at Augusta, & twenty seven brought to Ninety Six [in South Carolina] to share the same fate." North Carolinians rightly feared that such punishments would be in store for them should they oppose the British invader.²⁴

In contrast to his general's uncompromising approach, Major Ferguson still believed that restraint not retaliation was the best anodyne for the disease of rebellion infecting the southern countryside. Tasked with the dual responsibility of subduing rebel partisan groups and drumming up recruits for his loyalist militia, Ferguson took a small contingent of uniformed loyalists into the backcountry borderlands in the hopes of convincing "the deluded inhabitants of the revolted American provinces" of the king's mercy. Hardly the parcel of bloodthirsty bandits often depicted, Ferguson's forces were under strict orders "to offer no injury to the persons or propertys [*sic*] of those men that have been on the rebel side" in the past. He warned his soldiers that "those who by plunder and outrage disgrace the name of loyalists" would "be punished even to death." Rather than rampaging through the backcountry, Ferguson's troops advanced cautiously and with moderation. Their restrained conduct shocked civilian onlookers who were expecting little less than "Tarleton's Quarter" from the armed loyalists. One of

²⁴ Edgar, *Partisans and Redcoats*, 113; Cornwallis to Clinton. August 29th, 1780. Camden, SC. *Cornwallis Papers*, 2:41; Cruger to Nesbit Balfour. September 19th, 1780. Augusta, GA. *Cornwallis Papers*, 2:103; Kolb and Weir, eds., *Captured at Kings Mountain*, 29.

Ferguson's officers, Surgeon Uzal Johnson, recorded meeting "one Poor Woman [who] expressed great surprise at seeing our Men so mild." Having heard "of the Cruelty of the English," the woman asked Uzal "if there was not Heathens in our Army that eat Children" because "she had been told there was." Notwithstanding the restraint shown by the loyalist column, most backcountry settlers still believed Ferguson's mission was nefarious; the stories of British atrocities were just too credible. In their minds, Ferguson and his Tory minions had to be stopped before they could "lay their country waste with fire and sword."²⁵

In early October, revolutionary militias from both the Carolinas, and from across the Blue Ridge Mountains in what is today Tennessee, poured into the backcountry to oppose Ferguson's march. Acting independently of either state or congressional orders, the militiamen were unbound by rules and regulations. These "backwater men" did not shy away from using violence to obtain intelligence about Ferguson's movements. After an attack on four unsuspecting loyalists in which "two young men" were killed, the survivors, who were "most barbarously maim'd," informed Ferguson that one of the American officers, Colonel Benjamin Cleveland, had given "orders for such cowardly acts of cruelty." Ferguson was incensed. He immediately issued a proclamation to the surrounding communities decrying the "shocking cruelties and irregularities" committed by the "Backwater men." He warned the loyalists that unless they wished "to be pinioned, robbed, and murdered, and see your wives and daughters, in four days, abused

²⁵ Ferguson's Declaration. September 9th, 1780. Tryon County, Gilbert Town. *Cornwallis Papers*, 2:150; Ferguson's Instructions to loyalists, undated (September, 1780). *Cornwallis Papers*, 2:151-2; Kolb and Wier, eds., *Captured at Kings Mountain*, 28. After the war, American Colonel Isaac Shelby claimed that Ferguson sent a paroled prisoner across the Blue Ridge Mountains to warn him that "if they did not desist from their opposition to the British arms, he would march his army over the mountains, hang their leaders, and lay their country waste with fire and sword." Unfortunately, there is no evidence from the period that Ferguson ever sent this message. Nonetheless, I think Shelby accurately captures what the "over the mountain men" expected from Ferguson and his loyalist troops. Draper, *King's Mountain*, 169.

by the dregs of mankind," they must arm themselves "in a moment and run to camp."

Ferguson's warning had an immediate effect; he was able to assemble nearly a thousand North and South Carolina loyalist militia under his command. Believing his men capable of fending off the "inundation of barbarians," Ferguson chose to occupy the heights of King's Mountain in South Carolina to await the enemy's attack.²⁶

The assault came in the afternoon of 7 October. A roughly equal force of American militia surrounded the mountain and assailed Ferguson's command on all sides. It was bloody, desperate work. Within an hour Ferguson was dead and the loyalists' line of retreat was cutoff. Sensing the inevitable, Ferguson's second in command, Captain Abraham de Peyster, "thought proper to surrender as the only means of saving the lives" of his soldiers. De Peyster ordered a white flag raised in submission. Evidently, the American militiamen had not yet had enough of fighting. Militiaman Charles Bowen admitted in his pension application that he "shot the first man who hoisted the flag among the enemy." The flag was then passed on to others "who hoisted the flag" but "were twice shot." While the American commanders, colonels William Campbell, Isaac Shelby, and Benjamin Cleveland, claimed in their official report that when "a flag was immediately hoisted by Capt. DePeyster...Our fire immediately ceased," numerous American and loyalist reports suggest that firing continued for some time. While several accounts point to the lack of centralized command during the battle as the cause of the continued firing, others suggest it was the Americans' desire for vengeance. In his

²⁶ Ferguson to Cornwallis. October 1, 1780. Denard's Ford. *Cornwallis Papers*, 2:162; Ferguson's Proclamation. October 1, 1780. Denard's Ford. Robert M. Dunkerly, *The Battle of Kings Mountain: Eyewitness Accounts* (Charleston, SC: History Press, 2007), 135-6. American accounts suggest the number may have been as high as 1,200 while loyalist accounts put the number at 800. Most historians agree that somewhere between 900 and 1,000 loyalists were present at the battle of King's Mountain, of whom fewer than 100 were uniformed Provincial regulars. Lambert, *South Carolina Loyalists*, 142; Ferguson to Robert Timpany. October 6th, 1780. King's Mountain, SC. Dunkerly, *The Battle of Kings Mountain*, 138.

pension application, militiaman Joseph Hewes claimed "we killed near a hundred of them [loyalists] after the surrender...[we] could hardly be restrained from killing the whole of them." Years after the battle, Colonel Shelby abandoned his earlier stance that he had immediately accepted de Peyster's surrender. In his words, "it was some time before a complete cessation of the firing, on our part, could be effected." He attributed the cause to both the confusion of battle and to revenge. "Some [of his men], who had heard that at Buford's defeat the British had refused quarters to many who asked it, were willing to follow that bad example." The militia had gone into the battle with the countersign "Buford" and the intention to avenge the "massacre" at the Waxhaws. In his journal, Loyalist Lieutenant Alexander Chesney noted that he feared the militia "would not give quarter" to his soldiers, and he was not surprised that "the Americans resumed firing" well after the initial surrender. Chesney reported that "a dreadful havoc took place until the flag was sent out a second time when the work of destruction ceased." Believing their ordeal at an end, Chesney and his fellow survivors threw down their arms, thankful to be alive.²⁷

With the battle finally over, the American commanders found themselves in possession of some seven hundred loyalist prisoners without a plan or protocol for what

²⁷ De Peyster to Cornwallis. October 11, 1780. Camp near Gilbert Town. Dunerkly, *The Battle of Kings Mountain*, 134; Pension Application of Charles Bowen. Dunerkly, *The Battle of Kings Mountain*, 18; Report by William Campbell *et al.*, concerning the Battle of King's Mountain. *CSRNC*, 15:164. Colonel William Campbell admitted soon after the battle that "The flag for a surrender was immediately hoisted; and as soon as the troops could be noticed of it, the firing ceased." Campbell to Colonel Arthur Campbell. October 20th, 1780. Wilkes County. Colonel William Hill remembered that "a number of white handkerchiefs were seen holding up in the camp & yet a number of men not knowing the intention of this signal continued their fire & it was some time before the officers could get them to cease firing. Colonel William Hill's Account. Militiaman Silas McBee claimed that "when the flag was hoisted after which, even, some fired, and Sevier and the other officers had some difficulty in getting the men to cease firing." Silas McBee Statement. Dunerkly, *The Battle of Kings Mountain*, 27, 51, 64; Joseph Hughes's Pension Application. Dunerkly, *The Battle of Kings Mountain*, 52; Colonel Isaac Shelby's Pamphlet to the Public. 1823. Dunerkly, *The Battle of Kings Mountain*, 77; E. Alfred Jones, ed., *The Journal of Captain. Alexander Chesney: A South Carolina Loyalist in the Revolution and After* (Columbus, OH: Ohio State University Press, 1921), 18.

to do with them. Only a fraction of the prisoners were uniformed regulars, the remainder being Carolina loyalists. Were these men prisoners of war and thus eligible for exchange or were they state prisoners that should be tried for treason? No one in the American camp seemed to know the answer. While the American commanders considered their next step, the prisoners and their captors camped on the battlefield "amidst the dead and groans of dying [loyalists], who had not surgical aid or water to quench their thirst." One American militiaman recalled that during that horrible night, "the groans of the wounded and dying on the mountain were truly affecting—begging piteously for a little water," only to be ignored by the American guards. Receiving news in the morning that Tarleton and a British relief column were on the way, the militiamen rounded up their prisoners and marched them northward under orders "to fire on, and destroy the prisoners" should Tarleton catch up with them. The militia commanders reasoned that their best hope of avoiding the British pursuers, and of divesting themselves of their prisoners, was to link up with the remainder of Gates' army in North Carolina. Perhaps the general would know what to do with the loyalists.²⁸

The exhausted prisoners' march of over twenty miles a day was impeded by abuse from their militia guards and poor provisions. Chesney recorded that in order to prod their advance, the guards were continually "cutting and striking us by the road in a savage manner." Several prisoners must have perished under this ill-treatment because Colonel Campbell issued an order on October 11th requesting "the officers of all ranks in the army to endeavor to restrain the disorderly manner of slaughtering and disturbing the prisoners." Those prisoners who survived attack by the guards suffered from lack of sustenance on their arduous trek. If the American militia had food to spare, they did not

²⁸ Edgar, *Partisans and Redcoats*, 119; Jones, *The Journal of Captain Alexander Chesney*, 18.

share it with the prisoners who "were worn out with fatigue and fasting...having no bread or meat for two days." It was not until the column reached Gilberttown, North Carolina on 13 October that the prisoners finally received "an ear of corn" and some old clothing in remuneration for that the militia had stolen from them after the battle. Unfortunately for the prisoners, these tokens of American "liberality" merely masked their captors' real intentions.²⁹

To their horror, the prisoners awoke on the morning of the 14th to learn that their commanders would stand trial for their lives. Grumblings among the militiamen for harsher measures had escalated overnight into demands for a drumhead tribunal to try the principal loyalist officers. As one militiaman remembered, he and his colleagues hoped to make an example of men who had "committed cool and deliberate murder and other enormities alike atrocious." Acquiescing to the demands of their troops, the militia's officers organized a kangaroo court under the pretence of a North Carolina law authorizing two magistrates to convene a trial. Loyalist Surgeon Johnson, who witnessed the proceedings, claimed that the prisoners were tried "for treason" against the state. A contemporaneous account from an unknown loyalist prisoner describes what happened next. "After a short hearing, thirty gentlemen, some of the most respectable characters in that country, had sentences of death passed on them; and at six o'clock of the same day they began to execute" the men. The condemned prisoners, who included socially prominent loyalists such as Colonel Ambrose Mills of Green River, were hanged three at a time in front of the other prisoners who "were compelled to attend at the execution of

²⁹ Jones, *The Journal of Captain Alexander Chesney*, 18-19; John Spelts's Account. Dunkerly, *The Battle of Kings Mountain*, 84; *Royal Gazette*, February 24th, 1781; William Campbell's General Orders. October 11th, 1780. Camp Below Gilbert Town. Dunkerly, *The Battle of Kings Mountain*, 28; Diary of Lieut. Anthony Allaire, of Ferguson's Corps in Draper, *King's Mountain and Its Heroes*, 511; Diary of Lieut. Anthony Allaire, of Ferguson's Corps in Draper, *King's Mountain and Its Heroes*, 510.

their brave but unfortunate men." Surgeon Johnson recorded that the men "died like Romans saying they died for their King & his Laws."³⁰ After the execution of the first nine prisoners, the grisly affair came to an abrupt halt. In his post-war narrative, Colonel Shelby claimed that he "interfered, and proposed to stop it." In a contemporary account, Alexander Chesney maintained the Americans only suspended the executions because they received news of the impending arrival of Tarleton's British Legion.

Whatever the cause for discontinuing the executions, the motive that animated the militiamen to begin them in the first place is clear: revenge. Shelby insisted that the "cruel and justifiable acts" of the British "required retaliatory measures." In a similar vein, Colonel William Hill, who was with the Gates' army at the time, justified the execution of the prisoners because the militiamen had been "provoked to this by the severity of the British who had lately hanged a great number of americans [*sic*]." Despite its legal varnish, this was not a case of proportional retaliation. The prisoners were not executed in retaliation for any particular act of British or loyalist aggression. They were hanged as traitors to their country. Far from appalled by the militia's rash actions, Governor John Rutledge of South Carolina rejoiced that the militia had executed "8 or 10 of the most noted horse Thieves & Tories" in the Carolinas. The tidewater planter and politician agreed wholeheartedly with his backwoods constituents: Tory traitors deserved nothing less than the hangman's noose.³¹

³⁰ Ensign Robert Campbell's Account. Dunkerly, *The Battle of Kings Mountain*, 22; Kolb and Weir, eds., *Captured at Kings Mountain*, 32; "Description of the Treatment of British Prisoners of War." December 27th, 1780 Charleston, SC. From *Scots Magazine*, January, 1781. *CSRNC*, 15:183. Accounts vary as to how many prisoners were actually convicted. Colonel Shelby remembered thirty-six convictions while loyalist prisoner Uzal Johnson claimed only thirty. Shelby's Account, Dunkerly, *The Battle of Kings Mountain*, 74; Kolb and Weir, eds., *Captured at Kings Mountain*, 32. Without revealing his source, Robert Lambert claimed that 39 were convicted. Lambert, *South Carolina Loyalists*, 143; *CSRNC*, 15:183.

³¹ Shelby's Account, Dunkerly, *The Battle of Kings Mountain*, 74; Colonel William Hill's Account. Dunkerly, *The Battle of Kings Mountain*, 52; Rutledge to the Delegates of the State of South Carolina in

Having witnessed the murder of nine of their fellows, and fearing that a similar fate was in store for them, many of the King's Mountain prisoners resolved to escape. As the prisoners trudged northward, escape became a viable option when more and more of the American militiamen, fed up with poor rations and monotonous marching, deserted. When their remaining guards were not looking, numerous prisoners slipped away. Others were not so lucky. Surgeon Johnson noted that "three Prisoners endeavouring to make their escape, one got shot through the Body." The wounded prisoner was hanged the next morning. Despite this exemplary punishment, prisoners continued to escape at a significant rate. Chesney, who Colonel Cleveland had ordered executed for his refusal to train the American militia in Ferguson's innovative light infantry tactics, managed to flee when the column approached Winston-Salem.³²

Those not agile enough to escape risked falling victim to their captors' fury. According to Loyalist lieutenants William Stevenson and John Taylor, the prisoners were "so wearied that many of them were obliged to give out on the road." Unable or unwilling to spare a guard for these men, the Americans murdered the exhausted prisoners. When Surgeon Johnson tried to tend to wounded stragglers, he was accosted by Colonel Cleveland who called Johnson "a Damnd [*sic*] Villain" who "deserved the Gallows." For the act of aiding the injured men, Cleveland struck Johnson "over the Head with his Sword, and levil'd [*sic*]" him. Repeating his stroke, Cleveland "cut his hand with his sword." When Johnson demanded to know his crime, all Cleveland could

Congress. November 20th, 1780. Salisbury, NC. Joseph W. Barnwell, ed., "Letters of John Rutledge," *The South Carolina Historical and Genealogical Magazine*, Vol. 17, No. 4 (Oct., 1916), 131-146, 143-144. For an account that stresses the restraint of the militia in the aftermath of the battle see Lee, *Crowds and Soldiers*, 186-191. See also Lambert, *South Carolina Loyalists*, 138-146 and Edgar, *Partisans and Redcoats*, 116-121.

³² Kolb and Weir, eds., *Captured at Kings Mountain*, 33; Jones, *The Journal of Alexander Chesney*, 19.

say was that Johnson was "a Damn'd Traitor to [his] Country." The American commander, who would be known to posterity as "the Terror of the Tories," was determined to see all the prisoners tried and executed for betraying a country they had never claimed. Believing their lives endangered because the Americans "seem'd determined to murder" them, Stevenson and Taylor succeeded in making their escape. Johnson was not far behind; disguising his identity because he knew many backcountry southerners "would not stick at murdering me if they found out I belonged to the British."³³

Those survivors who failed to escape faced a grim choice: abandon their principles and enlist in the American army or face civil prosecution for treason. Although General Washington was vehemently opposed to enlisting British or loyalist prisoners into the Continental army, local recruiters were in dire need of trained men who could withstand the discipline and rigors of campaigning. For many prisoners, the choice was simple; they enlisted rather than face the hangman or a slow death in an American prison. In early November, Surgeon Johnson recorded that "most of them enlisted in the Continental Service rather than suffer Death by inches Starving with cold & hunger." Aware of the likely outcome of a treason trial, Johnson could not blame his fellow prisoners for their desperate acts of self-preservation. Once the prisoners reached Salisbury, North Carolina Colonel Martin Armstrong reported that "One hundred & Eighty Eight" prisoners were "taken out of my Hands by the Civil power, & bound over to ye law." William Gist was one loyalist prisoner who refused to join the revolutionary

³³ Statement of Lieutenants William Stevenson and John Taylor. November 30th 1780. *Cornwallis Papers*. 3:459; Kolb and Weir, eds., *Captured at Kings Mountain*, 34; Statement of Lieutenants William Stevenson and John Taylor. November 30th 1780. *Cornwallis Papers*, 3:459; Kolb and Weir, eds., *Captured at Kings Mountain*, 43.

effort. In his post-war claim for compensation from the crown, Gist related his ordeal. Tried for his life, he was "handcuffed and marched two hundred miles," passed from jail to jail, "with little or nothing to Eat" for two months until he finally managed to escape. When Cornwallis liberated the Salisbury jail in the winter of 1781, the British general was appalled. The remaining King's Mountain prisoners were "almost starved to death." Very few of them remained in American custody. Of the survivors, nearly three hundred had escaped, while the rest had "enlisted in to the Continental Service."³⁴

Both Continental and state authorities were furious that the militia had allowed so many of the prisoners to abscond or enlist. General Gates, who had hoped to exchange the prisoners for those held by the British, reprimanded Armstrong. In his opinion, "we have already suffered too much, from the Treachery, and Baseness of the Tories" to ever trust them again. "These prisoners ought to have been carefully kept confined, to be tried by the Laws of the State, to which they belong...or exchanged for our Militia Prisoners of War." Embarrassed, Armstrong assured his general that had he not enlisted the men, "the officers from The other Side of the Mountain" would have "Kill[ed] every one of Them." Armstrong had done what he thought best under the circumstances. The North Carolina Board of War was unimpressed. The members demanded to know why Armstrong had issued such "Indulgences" to loyalist "Villains," while American prisoners suffered in Charleston under constant threat of being sent to "the West Indies, out of our power, there to rot and die in Gaols." Armstrong would not make the mistake again; the North Carolina Legislature suspended him indefinitely. As the colonel learned all too well,

³⁴ Kolb and Weir, eds., *Captured at Kings Mountain*, 35; Armstrong to Gates. November 7th, 1780. Surry County. CSRNC, 14:728-9. See also Dunkerly, *The Battle of Kings Mountain*, 74; Claim of William Gist, A.O. 13/129. National Archives of the United Kingdom; Cornwallis to Greene. February 4th, 1781. Note 3. *Cornwallis Papers*, 4:74; Armstrong to Gates. November 7th, 1780. Surry County. CSRNC, 14:728-9. See also Dunkerly, *The Battle of Kings Mountain*, 74.

enemy prisoners were the state's property, and the governments of the southern states were determined to exact retaliation for British atrocities. If Cornwallis denied American soldiers quarter, abused American prisoners on prison ships, and executed American civilians for supposed violations of their paroles, British and loyalist prisoners would pay the price for his cruelty.³⁵

When he received news of the King's Mountain prisoners' treatment, Cornwallis was livid. He immediately dashed off a letter of protest to the American militia commander, Brigadier General William Smallwood. In his remonstrance, Cornwallis raged against "the cruelty exercised on the prisoners taken under major Ferguson." Such treatment was "shocking to humanity." To the British general, the executions of Colonel Mills, "who was always a fair and open enemy" to the American cause, and his eight fellow prisoners, was "an act of the most savage barbarity." Threatening to allow "the suffering loyalists to retaliate on the unfortunate persons now in my power," Cornwallis demanded that Smallwood use his "authority to stop this bloody scene."³⁶

Rather than engage in a cycle of retaliation, Cornwallis proposed a solution: a partial exchange. He was willing to "exchange any of the North or South Carolina militia who may be prisoners with us for those who were taken on King's Mountain."

Cornwallis had earlier hoped to establish a general cartel of exchange, but he was now

³⁵ Gates to the Board of War at Hillsborough in reference to Col. Martin Armstrong. November 16, 1780. Salisbury, NC. *PCC*, Item 154, Vol. 2, p. 331; Armstrong to Gates. November 19th, 1780. Surry County. *CSRNC*, 14:745-6. See also the North Carolina Board of War to Martin Armstrong. November 14th, 1780. *CSRNC*, 14:463-4; North Carolina Board of War to Martin Armstrong. November 14th, 1780. *CSRNC* 14:463-4; Resolve of the North Carolina Legislature, February 3rd, 1781. *CSRNC*, 17:668. A Colonel William Crayham of the county of Lincoln was "discharged from his said office" for "receiving a bribe for procuring the discharge of a prisoner named Simon Hagar, taken at King's mountain." Resolve of the North Carolina Legislature, February 3rd, 1781. *CSRNC*, 17:667.

³⁶ Smallwood was a Continental Brigadier General from Maryland who had served under Gates at Camden. In the aftermath of the battle, Smallwood took over organization of the American militia forces in the Carolinas. Cornwallis to Smallwood. November 10th, 1780. *Cornwallis Papers*, 3:401.

willing to accept a far more limited swap in order to preserve the morale of southern loyalists and rid himself of the burden of provisioning and confining captured Americans. Unfortunately, the American general had no prisoners to exchange; the militia had killed some and had permitted the remainder to enlist or escape. Even if Smallwood still possessed the King's Mountain prisoners, Congress had not yet acquiesced to General Gates' request to engage in exchange negotiations with Cornwallis. Speaking for many revolutionary southerners, Governor Rutledge feared that "many, if not all of 'em [King's Mountain prisoners] will return to the Enemy" without redeeming a single American captive.³⁷

The potential for a future exchange was not wholly out of the question. Replacing Gates as the American commander in the southern theatre, Rhode Island Major General Nathanael Greene came south in the fall of 1780 armed with a secret weapon: congressional permission to arrange a large-scale exchange of prisoners. The President of the Continental Congress, Samuel Huntington, instructed Greene, a former Quaker who had distinguished himself as one Washington's most able lieutenants, that he was "expressly authorized to negotiate from Time to Time an Exchange of Prisoners with the Commanding Officer of the British Army in that Department." Nonetheless, as Washington would later clarify, Congress remained unwilling to exchange the Convention army. As subjects of congressional retaliation, Burgoyne's defeated soldiers

³⁷ Cornwallis to Smallwood. November 10th, 1780. *Cornwallis Papers*, 3:401; Gates to Jefferson. November 1st, 1780. Hillsborough, NC. *Founders Online*; Rutledge to the Delegates of the State of South Carolina in Congress. November 20th, 1780. Salisbury, NC. Barnwell, ed., "Letters of John Rutledge," 143.

were worth more in custody than Lincoln's army would ever be free. If Greene wanted to redeem the Charleston prisoners, he would have to capture a British army of his own.³⁸

This was a tall order given the meager force of Continental regulars Washington had been able to spare for the southern department, but the Rhode Islander had a plan to recoup the captive Continentals. Rather than condescend to the numerous militia and partisan commanders in the south as Gates had done, Greene would aggressively employ them to interdict British supply and communication lines and cow the local loyalists: picking up prisoners along the way. He was pleased by the work of Francis Marion and his fellow partisans, informing Marion that "we must endeavour to keep up a Partizan War." Anticipating a flood of enemy captives, Greene ordered Captain Joseph Marbury to establish a depot in Salisbury, North Carolina "for the safe Custody of the Prisoners of War" he intended to capture. The camp, enclosed by an eighteen foot stockade, would boast a secure jail for recalcitrant prisoners, a "Scaffold" that would allow the guards to "Watch or fire upon the Prisoners," and "Hutts [*sic*] within the Pickets for them [the prisoners] to cook and sleep in." While innovative, Greene's plan was overly ambitious. Salisbury's civilian leaders had little interest in spending their finite resources on building a prison for a congressionally appointed general. Marbury regretted that he did not have the tools or the "fatigue Men to use them" to build the prison. Local craftsmen refused to work for nearly worthless Continental dollars, and his soldiers were "naked and sickly." The prison was a pipe dream.³⁹

³⁸ Huntington to Greene. October 31st, 1780. Philadelphia. Roger N. Parks, *et al.*, eds., *The Papers of General Nathanael Greene* (Chapel Hill: University of North Carolina Press, 1976-), 13 vols., 6:451, hereafter cited as *Greene Papers*; Washington to Greene. November 8th, 1780. Passaic Falls, NJ. *Greene Papers*, 6:469.

³⁹ Greene to Marion. December 4th, 1780. Charlotte, NC. *Greene Papers*, 6:519. For more on Greene and his opinions on partisan warfare see John Buchanan, "We must endeavor to keep up a Partizan War," in Gregory D. Massey and Jim Piecuch, eds., *General Nathanael Greene and the American*

As it turned out, Greene would have little need for a prison depot because few American militiamen had any intention of taking prisoners in the first place. With Ferguson and his loyalist minions defeated and dispersed, militiamen like John Clemmons "wished to take vengeance on them who had cruelly used him." Desiring revenge, American militia bands, sometimes with authorization from their respective states but often acting on their own recognizance, plundered, tortured, and murdered loyalists throughout the Carolinas at will. After having served at King's Mountain, John Waddill enlisted in Colonel Elijah Clarke's militia company for the purpose of suppressing loyalists. Waddill remembered that during the winter of 1780-1781, he and his comrades "killed several Tories in the course of this expedition, and destroyed their property." Explaining his conduct, Waddill argued that his fellow militiamen, "who had been driven from their homes and whose families and relations had been murdered by the Tories and their property destroyed, were so much exasperated, that they could not be restrained from retaliation." Similarly enraged, George Parks, a militiaman who served under Colonel Benjamin Cleveland of King's Mountain fame, recalled surprising a party of loyalists and capturing seven of them. Instead of turning them over to the Continental army or to civilian authorities for trial, Parks' "party of Minute Men hung two of them" before "whipping the rest nearly to death." In this case, the militiamen were not acting out proportional retaliation for a specific loyalist misdeed but were engaging in what became known in the south as "Lynch's law."⁴⁰

Revolution in the South (Columbia: University of South Carolina Press, 2012), 119-146; Greene to Marbury. December 4th, 1780. Charlotte, NC. *Greene Papers*, 6:521; Marbury to Greene. December 17th, 1780. Salisbury, NC. *Greene Papers*, 6:594. See also, Colonel Abraham Buford to Greene. January 4th, 1781. Salisbury, NC. *Greene Papers*, 7:49.

⁴⁰ Pension Application of John Clemmons. S8215. Transcribed by Will Graves. <http://revwarapps.org/s8215.pdf>; Pension Application of John Waddill. R10977. Transcribed by Will

Purportedly named for the Virginia militia colonel Charles Lynch, who along with Benjamin Cleveland had ordered the execution of a loyalist in the summer of 1780 without any other due process than "the joint consent of near three hundred men," the "lynching" of loyalists became all too quotidian throughout the southern states until the end of the war. Nathaniel Smith admitted that while employed in "keeping down Tories," he "administered Lynch's law" to his captives. Men who appeared "suspicious" to Smith and his colleagues were summarily executed by hanging. The North Carolina Senate officially approved the "lynching" of loyalists on July 27th, 1781, when it passed a bill "to indemnify all such persons as have put to death any of the subjects of this State, being known & notorious Enemies & Opponents of the Government thereof." Provided the victim could be identified as a loyalist, the "lyncher" had nothing to fear from the state's revolutionary government. Predictably, the license to kill terrified both ardent and lukewarm loyalists alike. Nesbit Balfour warned Cornwallis that the Americans had "adopted the System of murdering every militia officer of ours as well as every man (although unarmed) who is known to be a loyalist. The terror this mode of conduct has struck you will easily suppose."⁴¹

Though not required by law, occasionally militia companies would convene mock tribunals before passing summary judgment in order to give their actions an air of

Graves. <http://revwarapps.org/r10977.pdf>; Pension Application of George Parks. W27457. Transcribed by Will Graves. <http://revwarapps.org/r10977.pdf>.

⁴¹ Lynch was the commander of Campbell's militia unit when they met up with Colonel Benjamin Cleveland who had "apprehended a certain Zechariah Goss, a fellow who belonged to a party under the command of Samuel Brown and [James Coyle, two noted murderers, horse-thieves and robbers. Goss was immediately hung, I believe with the joint consent of near three hundred men, and two other villains were very well whip'd." Colonel William Campbell to Colonel Arthur Campbell. July 25th, 1780. Louise Phellps Kellogg, ed., *Frontier Retreat on the Upper Ohio: 1779-1781* (Madison: Wisconsin Historical Society, 1917), 240; Ashraf H. A. Rushdy, *American Lynching* (New Haven: Yale University Press, 2012), 23-4; Pension Application of Nathaniel Smith. R9817. Transcribed by C. Leon Harris. <http://revwarapps.org/r9817.pdf>; Minutes of the North Carolina Senate. June 29th, 1781. *CSRNC*, 17:827; Balfour to Cornwallis. April 26th, 1781. Charleston. *Cornwallis Papers*, 4:177.

legitimacy. With the law on their side, the revolutionaries were keen to invoke it. Militiaman John Copeland remembered that having captured Colonel John Moore, "a Tory who had commanded the Tory troops at [the battle of] Ramsour's Mills," General Thomas Sumter presided over his "trial." Despite the pretence to legality, the verdict was preordained. "Moore was condemned & executed at a Cross roads not far from the place of his trial." In what is the most famous and most lurid account of such a "Court Marital," William Gibson related that a loyalist named "McPherson was condemned & shot" and another by the name of Campbell "was condemned to be spicketed, that is, he was placed with one foote [*sic*] upon a sharp pin drove in a bloc[k], and was turned round...until the pin run through his foot." Gibson confessed that "he viewed the punishment of those two men with no little satisfaction." With the sentence carried out, Gibson and his party released Campbell, no doubt to spread the word among local loyalists of the fate in store for those who defied the revolution. Releasing loyalist prisoners after torture was relatively common. With neither the funds nor facilities to feed and house enemy prisoners, revolutionary militias regularly flogged, branded, beat, or otherwise physically disfigured southern loyalists and suspected loyalists. More than just revenge, these punishments served the added purpose of spreading terror and visibly marking the offenders as enemies of the revolution.⁴²

⁴² Pension Application of John Copeland. S30966. Transcribed by Will Graves. <http://revwarapps.org/S30966.pdf>. Gibson claimed he acted out of a desire for revenge against the two loyalists who he "then supposed to belong to the identical band who inhumanly inflicted corporal punishment upon his helpless parent, who had committed no other offense than that of earnestly exhorting her sons to be true to the cause of American Liberty." Pension Application of William Gipson. S17437. Transcribed by Will Graves. <http://revwarapps.org/s17437.pdf>. Gipson's account is regularly cited as being representative of the types of violence employed by both sides during the war in the south. "Spicketing" was apparently a common enough punishment. Dabney Freeman remembered that "two or three" of his comrades were "convicted of violating orders by getting drunk and were punished by standing on 'Spaketts' [*sic*]—being two sharp rods of iron fastened to a pumkion [?] over which they were suspended from a kind of scaffold." Pension Application of Dabney Freeman. R3778. Transcribed by C. Leon Harris.

Spicketing and other forms of torture were not unique to the southern campaigns; similar acts of violence and vengeance were committed by militia forces operating in the north. General Clinton received numerous petitions from northern loyalists and British prisoners who had suffered at the hands of revolutionary committees and militias. The case of Henry Dyer, "a Loyal Refugee from Orange County in the Province of New York," is uncomfortably typical. He pleaded with Clinton in July 1780 to arrange for his release from American captivity, which he had endured for over a year. During his imprisonment, Dyer was "hanged up by the Rebels three different times to extort Confession or gratify their cruelty." When not being tortured, he languished for "a long Time in Irons." Regrettably for Dyer and his fellow sufferers, Continental authorities could do little to prevent such abuse. In January 1781, a Continental army officer in New York reported that "a set of Lawless Ruffians who under the Sanction of being Friends to their Country disgrace the Name, by Conduct which the most savage Barbarians would condemn," were engaged in "beating, burning, [and] hanging" loyalists and neutral civilians "untill [*sic*] the miserable Wreches [*sic*] are almost Lifeless." Because their actions were sanctioned by the laws of New York, "no Redress can be obtained [f]or the Inhabitants for the most part are excluded from the Privileges of civil Law." General Heath admitted to Washington that he could do nothing to protect the loyalists because

<http://revwarapps.org/r3778.pdf>. Pancake, *This Destructive War*, 88 and Lee, *Crowds and Soldiers*, 189. A petition from the inhabitants of the district of Salisbury, North Carolina to the General Assembly of the state protesting the "Numberless barbarities, Assassinations, Murders, and Robberies throughout the whole district" committed by the revolutionary militia is instructive. The petitioners, who by all accounts were loyal revolutionaries, enumerated the militia's alleged crimes. Loyalists were "oftentimes murdered in Cool blood, others again have been hanged up two or three times until almost dead, and then shot by way of diversion, thus put to Death in the most torturing manner...Numbers of persons such as Women and Children have been tortured, hung up and strangled, cut down, and hung up again, sometimes branded with brands or other hot irons." Report and Papers, General Assembly Session Records, April-May 1782, North Carolina Archives. Quoted in Lee, *Crowds and Soldiers*, 179. See also, Pension Application of James Hilton. S30484. Transcribed by Nancy Poquette. <http://revwarapps.org/s30484.pdf>, Pension Application of John Tuttle. W4836. Transcribed by Will Graves. <http://revwarapps.org/w4836.pdf>, Pension Application of William Zachary. R11982. Transcribed by Will Graves. <http://revwarapps.org/R11982.pdf>.

"if any Officer interferes, he subjects himself to a civil prosecution." The states had criminalized loyalism, making any suspected tory a suitable target for plunder and persecution.⁴³

Retaliatory violence was not only the purview of revolutionary militias; Continental army units were also complicit in the murder and mistreatment of loyalist prisoners. In December 1780, Colonel William Washington, the second cousin of the American commanding general, led his Third Continental Light Dragoons against Georgia loyalists under the command of Colonel Thomas Waters near Hammond's Store, South Carolina. Seeing the approach of the American cavalry, the loyalists broke formation and ran for their lives. They were no match for Washington's horsemen, who soon caught up with the fleeing men. Within minutes, 150 loyalists lay dead, dying, or maimed on the field without a single American casualty. Continental army Captain John Davidson explained the carnage. "Washington[']s men had in remembrance some of Mr. Tarltons [*sic*] former Acts and Acted accordingly." The following day, Washington's troopers tried and hanged a loyalist prisoner they accused of aiding hostile Native American groups.⁴⁴

Colonel Henry Lee's legion was even more brutal than Washington's men in its suppression of loyalist insurgents. His dragoons, who sported green jackets and bearskin-

⁴³ Memorial of Henry Dyer to Sir Henry Clinton. July 14th, 1780. Vol. 111, Fol. 41. Sir George Beckwith noted in September 1779 that New Jersey loyalists, "when taken prisoners by the Rebels," were "confined in Goals often thrown into Dungeons, in Irons, and in some instances charged with heavy Iron Collars round their necks, in a manner which I am at a loss to describe." Beckwith to Captain John Andre. September 27th, 1779. Vol. 69. Fol. 19. See also, Jacob Schieffelin to Sir Henry Clinton. July 14th, 1780. Vol. 111, Fol. 40. Clinton Papers. Clements Library; Lieutenant Colonel William Hull to Washington. January 6th, 1781. Near Pines Bridge. Enclosed within Heath to Washington. January 8th, 1781. West Point. *Founders Online*.

⁴⁴ Captain John Davidson to Mordecai Gist. January 10th, 1781. Mordecai Gist Papers. MS. 390. Maryland Historical Society. See also Piecuch, *Three Peoples*, 239; William Seymour, "A Journal of the Southern Expedition, 1780-1783," in *Papers of the Delaware Historical Society* (Wilmington: Historical Society of Delaware, 1896), vol. 15, 12-13.

tufted helmets in emulation of Tarleton's troopers, rivaled the British Legion in cruelty. In February 1781, Lee stumbled upon a party of 300-400 hundred loyalist militiamen commanded by Dr. John Pyle. Seeing green uniforms and believing Lee's legionnaires to be friends, Pyle ordered his men to clear the road, allowing the horsemen to pass. Once the disguised Americans were advantageously positioned parallel to their foes, the American dragoons attacked the unsuspecting loyalists. One of Lee's officers, Joseph Graham, remembered that the dragoons "rushed on the Tories like lightening and cut away." Instantly, the field was transformed into a charnel house. As Lee later admitted, "the conflict was quickly decided and bloody on one side only. Ninety of the royalists were killed and most of the survivors wounded." The Americans suffered no casualties. Justifying the actions of his troops, who cut down unarmed men begging for their lives, Lee claimed that "our safety was not compatible with that of the supplicants," crying out for quarter. Though he regretted the "most dreadful carnage" Lee's troopers had inflicted upon the loyalists, General Greene believed the violence would have "a very happy effect on those disaffected Persons, of which there are too many in this Country." Perhaps now the loyalists would abandon their futile resistance. He was mistaken.⁴⁵

Southern loyalists were not simply innocent victims of revolutionary retribution; many were perpetrators of acts of violence every bit as cruel and devastating as their opponents. Loyalist militia commanders David Fanning and Thomas Brown were notorious for their persecution of American prisoners. In his postwar narrative, Fanning

⁴⁵ William A. Graham, *General Joseph Graham and his Papers on North Carolina Revolutionary History* (Raleigh: Edwards & Broughton, 1904), 319; Robert E. Lee, ed., *The Revolutionary War Memoirs of General Henry Lee* (Boston, MA: De Capo, 1998), 258; Greene to Jefferson, February 29th [28th], High Rock Ford, NC. *Greene Papers*, 7:367. In the opinion of contemporary British historian Charles Steadman, Pyle's loyalists "were inhumanly butchered, while in the act of begging for mercy." Charles Steadman, *The History of the Origin, Progress, and Termination of the American War* (London: J. Murray, 1794), 2 vols., 2:334.

confessed to turning over a captured American commissary of prisoners to "some of my men, who he had treated ill when prisoners; and they immediately hung him." At other times, Fanning took personal responsibility for ordering the death of his prisoners.

Having captured two American militiamen who he believed were implicated in the death of one of his officers, Fanning "hung them by way of retaliation, both on the limb of the same tree." Perhaps the most hated loyalist leader of the war, Thomas Brown was reportedly responsible for hanging thirteen of his prisoners from a staircase "so that he might have the satisfaction of seeing the victims of his vengeance expire." General Greene accused Brown of having hanged "About thirty persons" at Augusta.⁴⁶

The loyalist militias of Fanning and Brown were relatively restrained, however, by comparison to the loosely-organized, and largely independent of British oversight, bands of loyalists that prowled the southern backcountry in search of victims. In the aftermath of the Battle of Guilford Courthouse, Francis Cole was "taken by a party of Tories who confined him about four weeks—on no food but bread & insufficiency of that." He was finally released, but not before the loyalists had "branded him on both hands." Regrettably, Cole's case was far from unique. Horrified by the seemingly endless violence of the backcountry civil war, Nathanael Greene confided to Congress's president Samuel Huntington that he feared "the whole country is in danger of being laid waste by the Whigs and Torrys [*sic*], who pursue each other with as much relentless fury as beats of prey". To his friend Alexander Hamilton, Greene was even less sanguine:

⁴⁶ *The Narrative of Colonel David Fanning...* (New York: Joseph Sabin, 1865), 52, 46. Historians disagree on whether or not Brown issued the orders to hang the American prisoners at Augusta, but all agree that the men were executed and that revolutionary southerners blamed Brown. Edward J. Cashin, *The King's Ranger: Thomas Brown and the American Revolution on the Southern Frontier* (Athens, GA: University of Georgia Press, 1989), 118-119. For an account that places the blame squarely on Brown see Pancake, *This Destructive War*, 84; Greene to Cornwallis, December 17th, 1780. Enclosure, "A List of Persons executed by the Enemy." *Cornwallis Papers*, 3:407.

"the Whigs and Tories persecute each other, with little less than savage fury." To Greene, this was not war, it was murder.⁴⁷

Having experienced the violence of the war in the north first hand, Greene, much like Clinton, had hoped that the situation would be different in the south. As he informed Lord Cornwallis in December 1780, Greene wished "to soften the rigors of war as much as possible." Cornwallis, however, was still furious that the "men taken at King's Mountain were treated with an inhumanity scarcely credible." The British general was determined to enact "severe retaliation for those unhappy men who were so rudely and unjustly put to death at Gilbert Town." For his part, Greene was equally irate that Cornwallis had arrested and deported thirty-eight of "the Inhabitants of Charles-town to St Augustine contrary to the articles of capitulation." The group included some of the most prominent civilians in Charleston, not least of whom was Edward Rutledge, a signer of the Declaration of Independence. In Cornwallis's opinion, Rutledge and his compatriots were "the Ringleaders of Rebellion in this Province," and as such they had to be removed before they could "encourage the disaffected" to take up arms in opposition to British rule in the colony. Following the execution of the nine King's Mountain prisoners, Cornwallis's subordinate in Charleston, Nesbit Balfour, sent another twenty-two "of the violent and principal men, that were upon parole," to prison in Florida. Although Cornwallis assured Greene that "no man abhors Acts of Cruelty more than myself," the loyalists' "suffering" induced him "to retaliate on their inhuman Oppressors." In future, he would "observe the same Rule of Conduct, which you do in the treatment of the Officers & Soldiers of the Army, the Militia and the Inhabitants of the Country." If

⁴⁷ Pension Application of Thomas Cole. W8615. Transcribed by C. Leon Harris. <http://revwarapps.org/w8615.pdf>; Greene to Huntington. December 28th, 1780. Camp at the Cheraws, SC. *Greene Papers*, 7:9; Greene to Alexander Hamilton. January 10th, 1781. *Greene Papers*, 7:88.

Greene really wanted to soften the rigors of war, then he could prove it by reining in the militias and protecting the loyalists from violence.⁴⁸

Regrettably for prisoners on both sides, Greene was not the final arbiter of prisoner treatment in the southern theatre of the war. The militia and partisan groups came and went as they pleased, rarely following his advice much less his orders. Moreover, the revolutionary governments of the Carolinas and Virginia still viewed loyalists as traitors and rebels against their country that deserved prosecution not protection. Soon after taking command, Greene instructed a subordinate that enemy captives should be held for exchange as prisoners of war, not tried "for high treason," but he had little means of enforcing his orders beyond his immediate command. Compounding the problem, in early January Samuel Huntington informed him that Congress had determined that "Retaliation is become necessary" for the "cruel & unwarrantable Treatment" of American prisoners at Charleston and New York. Congress expected Greene to treat British and loyalist prisoners every bit as severely as Cornwallis, Balfour, and Tarleton treated American captives. Greene despaired. In early January 1781, there seemed to be little hope of ending the pernicious cycle of retaliation.⁴⁹

The prisoners' luck appeared to change when Greene received word that Continental Brigadier General Daniel Morgan had routed Tarleton's legion at the battle of Cowpens on 17 January, capturing over five hundred of the enemy. Determined to

⁴⁸ Greene to Cornwallis. December 17th, 1780. Charlotte, NC. *Greene Papers*, 6:592; When Cornwallis addressed this letter he was unaware that Greene had taken over command of the American Army from Gates. Cornwallis to Gates. December 1st, 1780. *Cornwallis Papers*, 3:405; Greene to Cornwallis. December 17th, 1780. Charlotte, NC. *Greene Papers*, 6:592; Cornwallis to Germain. September 19th, 1780. Waxhaw, SC. *CSRNC*, 15:282. See also, Borick, *Relive Us*, 94; Balfour to Cornwallis. November 15th, 1780. Charleston, SC. *Cornwallis Papers*, 3:76; Cornwallis to Greene. December 27th, 1780. Wynnesborough, SC. *Greene Papers*, 7:6.

⁴⁹ Greene to John Marshal. December 25th, 1780. Haley's Ferry, NC. *Greene Papers*, 6:612; Samuel Huntington to Greene. January 9th, 1781. Philadelphia, PA. *Greene Papers*, 7:86; *JCC*, 19:28.

preserve the prisoners for exchange, Morgan restrained his men, overruling the demands of his militia to give the British "Tarleton's Quarter." According to an American account published in the *Pennsylvania Packet*, Tarleton's soldiers did not expect generous treatment from their American captors. "The Highlanders of the 71st British regiment, famous for their butcheries upon those whom the fortune of war had heretofore put within their power, plucked the feathers from their caps, and presenting them on their knees, cried [*sic*], 'dear, good Americans, have mercy upon us!'" Understandably proud of his men, Morgan boasted that "Altho the Progress of this Corps was marked with Burnings and Devastations & altho' they have waged the most cruel Warfare, not a man was killed[,] wounded or even insulted after he surrendered." While Morgan was not entirely correct—at least one British soldier had in fact been executed in retaliation for the wounding of an American prisoner—Greene was delighted. Not only had Morgan bested Tarleton, but he had captured enough enemy soldiers to recoup the majority of the long-suffering Continental army prisoners in Charleston.⁵⁰

Keen to regain the veteran troops Tarleton had squandered at Cowpens, Cornwallis quickly contacted Greene with a proposal for a partial exchange of prisoners that would relieve the "many inconveniences and hardships" endured by prisoners on both sides. In case the American general had forgotten the suffering of the American prisoners in Charleston, Cornwallis reminded him that "the close manner in which we are

⁵⁰ Don Higginbotham, *Daniel Morgan: Revolutionary Rifleman* (Chapel Hill: University of North Carolina Press, 1961), 140; *Pennsylvania Packet*, February 17th, 1781; Morgan to Greene. January 19th, 1781. Cane Creek, SC. *Greene Papers*, 7:153. One of Morgan's militiamen Lawrence Everhart remembered that Major James Simons ordered a British prisoner "instantly Shot" as a "just Retaliation" for the wounding of one of his men. Simons to General William Washington. Charleston, SC. November 3rd, 1803. Enclosed within the Pension Application of Lawrence Everhart. S25068. Transcribed by C. Leon Harris. <http://revwarapps.org/s25068.pdf>. Cornwallis claimed that other British prisoners had been abused. As he told Greene, "shedding their blood can admit of no apology. Cornwallis to Greene. March 4th, 1781. *Cornwallis Papers*, 4:76. For the best scholarly account of the Battle of Cowpens see Lawrence E. Babits, *A Devil of a Whipping: The Battle of Cowpens* (Chapel Hill: University of North Carolina Press, 2000).

obliged to confine the prisoners in Charlestown to prevent their escape must prove fatal to many of them when the warm weather commences." If the prisoners' impending deaths from disease aboard British prison ships were not motivation enough to accede to an exchange, Cornwallis threatened "to send them in the course of next month to His Majesty's islands in the West Indies" where they would be "permitted to serve in the British regiments employed there." Greene could either exchange the men or never see them again. Not one to be bullied, Greene informed Cornwallis that he would never agree "to make an exchange but upon just and equal terms." Congress had deputized him with the authority to conduct an equitable exchange of prisoners, but it had also given him the power "to exercise the law of retaliation." Greene could not ship British prisoners to the West Indies, but he could send them to Virginia to be indefinitely confined upon prison ships. In the meantime, Greene ordered the Cowpens prisoners northward to the safety of the prisoner-of-war depot at Charlottesville.⁵¹

Despite their threats, both Cornwallis and Greene earnestly desired an equitable exchange, but many in the American camp were determined to delay it as long as possible. Cornwallis's army was dwindling due to disease, exhaustion, and capture, and

⁵¹ Cornwallis to Greene. February 4th, 1781. Head Quarters. *Cornwallis Papers*, 4:75. As early as August, 1780, the Virginia Board of War had transferred all the British prisoners in the state to prison ships. War Office to Captain Gray of the Gloster [*sic*] Prison Ship. August 3rd, 1780. Virginia Board of War Letterbook. July 21st 1780-January 2nd 1781. Misc. Reel 632. Library of Virginia, Richmond. On January 24th, 1781, Greene informed Governor Thomas Jefferson of Virginia that he had ordered one of his deputies "to march all the prisoners to Charlottesville." Greene to Jefferson. January 24th, 1781. Camp on Pedee River. William Pitt Palmer, Sherwin McRae, Raleigh Edward Colston, eds., *Calendar of Virginia State Papers and Other Manuscripts*.... (Richmond: R.F. Walker, 1875), 11 vols., 1:458, hereafter cited as *CVSP*. Fearing that Cornwallis would invade Virginia in an effort to retake the prisoners, and already burdened with the detention of the Convention army, Jefferson passed the prisoners on to Maryland, which was approved by Congress. Samuel Huntington to Thomas Jefferson. March 4th, 1781. *Founders Online*. The governor of Maryland Thomas Sim Lee also wanted nothing to do with the prisoners. He passed them on to Pennsylvania. Lee to Jefferson. March 17th, 1781. *Founders Online*. The prisoners arrived in Lancaster in early March, 1781. "On Monday last arrived at Lancaster, in this state, the British prisoners taken by General Morgan, near the Cowpens. They are principally of the 7th regiment, or Royal Fuzileers. They were taken at St. John's by General Montgomery, in the year 1775, and were quartered at Lancaster in 1776." Extract of a letter from St. Pierre. March 18th, 1781. *Freeman's Journal*, April 25th, 1781.

Clinton was in no position to reinforce him. Furthermore, after Ferguson's defeat, fewer and fewer loyalists had come forward to join his forces. As Horace Walpole quipped, "Lord Cornwallis has conquered his troops out of shoes and provisions, and himself out of troops." Southern weather and southern militiamen were wearing Cornwallis down. To allow him to regain Tarleton's crack troops struck many in Congress as strategically unsound. North Carolina congressional delegate William Sharpe explained: "Was the exchange to take place immediately and the enemy at liberty to arm and send forth their liberated troops, it might be a fatal stroke to the State of North Carolina." Although Sharpe was "opposed in this business of delaying the exchange by some of our neighbouring delegates, who has [*sic*] a passionate fondness for their friends" in captivity, he was convinced that the "critical situation to the southward" militated against the dictates of "humanity." Frustrated by the continual delays to the exchange, "particularly the opposition made to it by the delegates of North Carolina," Cornwallis assured Greene that he did not have "the smallest wish to insist upon unequal conditions." Overriding the North Carolina delegation's objections, Greene appointed commissioners "with full powers to settle the terms of an exchange of prisoners." The negotiations did not go smoothly. Both sides continued to quibble, dissemble, and delay until an accord was finally reached in May 1781.⁵²

Under the articles of exchange, the Continental prisoners in Charleston, who had been in custody for over a year, were finally to be exchanged for the British troops captured at Cowpens. There were not many Americans left; disease, escape, and

⁵² Walpole to Rev. William Mason. June 14th, 1781 Strawberry Hill. Peter Cunningham, ed., *The Letters of Horace Walpole, Earl of Orford* (London: Henry G. Bohn, 1861), 9 vols., 8:53; Sharpe to General William Lee Davidson. November 9th, 1780. *Cornwallis Papers*, 4:91; Greene to Cornwallis. March 8th, 1781. *Cornwallis Papers*, 4:77.

enlistment in the British army had taken a toll on the captured garrison. British records suggest that only 740 Continentals were released under the cartel in the summer of 1781: a far cry from the nearly four thousand Continental regulars captured during the course of the 1780-1781 campaign. Few of these men, who were malnourished and disease-ridden after an arduous captivity, ever returned to their regiments. Exchanged British prisoners, on the other hand, immediately rejoined Cornwallis's army. In June 1781, Captain Robertson Duncanson of the 71st Regiment arranged the "Exchange of several Hundred British Prisoners for an equal Number of the Enemy then in our Possession." Once the exchange was completed, Duncanson brought the men to join "the Army [und]er Lord Cornwallis." They could not arrive soon enough for the earl. After his pyrrhic victory over Greene at Guilford Courthouse in March, Cornwallis's army was woefully undermanned.⁵³

Unfortunately for Cornwallis and the remaining Cowpens prisoners, the exchange process broke down in late summer when Greene received word that the British had executed Colonel Isaac Hayne of South Carolina. Having accepted British "protection" after the fall of Charleston, Hayne had promptly returned to the American cause, taking the field as a militia commander. Commensurate with Cornwallis's earlier resolution to execute those Americans who had broken their paroles, Balfour decided to punish "all those, who shall be found in arms against his Majesty's Government, after having claimed and obtained their Sovereign's most gracious protection." Following a perfunctory trial, Hayne went to his death on August 4, 1781. Appalled by "the execution of Colonel

⁵³ Balfour to Cornwallis. June 22nd, 1781. Charlestown. *Cornwallis Papers*, 5:284; Borick, *Relieve Us*, 79; Service Record of Captain Robertson Duncanson, 71st Regiment of Foot. June 4th, 1784. Schoff Revolutionary War Collection. Box 2. Clements Library. See also Balfour to Cornwallis. June 22nd, 1781. Charlestown. *Cornwallis Papers*, 5:283.

Haynes [*sic*]," Greene immediately halted all further exchanges. He informed Cornwallis that he intended "to retaliate for every violence offered" to American citizens. Conscious of the miserable conditions endured by his men in American custody, as well as those braved by the remaining American militia prisoners in Charleston, Cornwallis worried that Greene's "retaliation" would "prove fatal to many innocent individuals on both sides." Greene would not be dissuaded. The remaining Cowpens prisoners would spend the rest of the war "Prisoners with the rebels [*sic*]." Exasperated and out of troops, Cornwallis chose to march north in order to link up with British forces operating in Virginia. Perhaps if Virginia could be subdued, he reasoned, American resistance in the Carolinas would finally falter.⁵⁴

The violent civil war in the Carolina backcountry would continue without Cornwallis. For two more bloody years, loyalists and revolutionaries persecuted one another without stop; each side seemingly keen to exceed the other in cruelty. Although he believed that "the Idea of exterminating the Tories is not less barbarous than impolitick," Greene was unable to restrain his mostly militia forces from "murder[ing] the defenceless [*sic*] people just on private peak [*pique*]." According to one of Greene's officers, William Pierce, "scarcely a day passes but some poor deluded tory is put to death at his front door." Viewing "such scenes of desolation, bloodshed and deliberate murder," Pierce regretted that "by copying the manners of the British," his countrymen had

⁵⁴ *Royal South-Carolina Gazette*, May 17th, 1781; Greene to Cornwallis. August 26th, 1781. *Cornwallis Papers*, 6:78; Borick, 104-5; Cornwallis to Greene. September 15th, 1781. *Cornwallis Papers*, 6:82; Muster Rolls of Captain Darby's/Darbie's Company of Light Infantry, 7th Regiment of Foot, WO 12/2475. National Archives, Kew. Loyalist prisoners captured in the battle were also detained. When British cartel ships carrying Continental prisoners sailed for Virginia in the summer of 1781, John Marks, a private of "the Prince of Wales's [*sic*] American Regiment taken prisoner at Cowpens" was still in "Lancaster & close confined." Deposition of John Marks. June 9, 1781. Sir Henry Clinton Papers. Vol. 158, Fol. 31. Clements Library; John D. Grainger, *The Battle of Yorktown, 1781: A Reassessment* (Woodbridge, Suffolk: Boydell and Brewer Ltd., 2005), 31-32.

"become perfectly savage." Brutality did not belong to the revolutionaries alone; the British were equally incapable of curtailing their loyalist volunteers' violent excesses. One American officer described the war's pattern: "The British destroyed the Whigs, and the Whigs retaliated on the Tories, thus none escaped the devastation." As had been the case in New York and Philadelphia after the British occupations of those cities, the cycle of retribution had escalated precipitously in the Carolinas. Fiery rhetoric reinforced and amplified the gory reality in the minds of southerners on both sides, and they relentlessly retaliated for real and imagined enemy atrocities. One of Greene's officers aptly summarized the mood in both camps: "Our countrymen breathe nothing but revenge." Thenceforth, the war would be fought "with the greatest vigour and spite." Loyalists and revolutionaries alike agreed that peace alone could end the bloodletting.⁵⁵

"Elated with victory, and reeking with revenge": The Capitulation of Yorktown and the Fate of Cornwallis's Army

In the summer of 1781, while Greene's partisans chased the remaining British troops in South Carolina from their backcountry posts, George Washington had an opportunity, for the first time in his long military career, to conduct a conventional European-style campaign. The commander of France's expeditionary force in America,

⁵⁵ Greene to Andrew Pickens. June 5th, 1781. Ninety Six, SC. *Greene Papers*, 8:350; William Pierce to St. George Tucker. July 20th, 1781. High Hills of Santee, SC. Charles Washington Coleman, Jr., ed., "Southern Campaign of General Greene, 1781-1782," *Magazine of American History*, vol. VII (December, 1881), 431-435, 434; Journal of Lieutenant Enos Reeves. April 16th, 1782. Camden, SC. Enos Reeves Papers. Box 1. Duke University Special Collections; Extract of a letter from General Greene's camp dated August 25th, 1781. *New-Jersey Gazette*, September 26th, 1781. For further examples of violence directed toward British and loyalist POW's after Cornwallis's decision to depart for Virginia see Wade to Greene. April 4, 1781. Haley's Ferry, NC. *Greene Papers*, 8:53; Emmet to Greene. April 9th, 1781. Campbelltown, NC. *Greene Papers*, 8:74. For loyalist retaliation see *ibid.*, n.3. For an example of a senior American officer's justification of prisoner abuse as retribution for the "barbarous massacres" committed by the British see Andrew Pickens to Greene. April 8th, 1781. Enoree River, SC. *Greene Papers*, 8:70-72. See also, Pickens to Greene. June 7th, 1781. Augusta, GA. *Greene Papers*, 8:359. For official British retaliation see Balfour to the prisoners aboard the Torbay prison ship in Charlestown Harbor. *Worcester Gazette*, July 26th, 1781.

General Jean Baptiste Donatien de Vimeur, Count de Rochambeau, informed Washington in June that a French fleet was on route to American waters. Elated by the prospect of naval superiority over the enemy, Washington suggested that the combined Franco-American force demonstrate against British-occupied New York. Rochambeau, who knew that even with the addition of his French troops the allies were still outnumbered by Clinton's garrison, suggested that they use their forces where they could be most effective: in Virginia. After leaving the Carolinas, Cornwallis had moved into Virginia to join forces with a larger British army commanded by the American traitor, and now brigadier general in the British army, Benedict Arnold. With Arnold's troops, Cornwallis planned to conquer the state, but orders from Clinton obliged him to first establish a naval base on the Virginia coast. Dutifully, Cornwallis fortified positions at Yorktown and Gloucester point on either side of the York river, there to await orders and reinforcements from Clinton. To the British general's horror, it was a French fleet he spotted off the Virginia Capes in September. Washington and Rochambeau's combined force of nearly nineteen thousand men arrived soon after. Cornwallis was trapped.⁵⁶

Proceeding in a textbook style that would have brought a smile to the face of Marshal Vauban, the siege of Yorktown was a spectacle of European military engineering. Despite the heat and mosquito-born illnesses of early autumn in coastal Virginia, the Franco-American forces advanced steadily, digging saps and parallels to bring their guns within range of Cornwallis's fortifications. Washington was in his

⁵⁶ Edward G. Lengel, *General George Washington: A Military Life* (Random House: New York, 2005), 329-330. For a useful narrative history of the Yorktown prisoners' captivity see James Linwood Carpenter, Jr., "The Yorktown Prisoners: a Narrative Account of the Disposition of the British Army Which Capitulated at Yorktown, October 19, 1781," (M.A. thesis, The College of William and Mary, 1950).

element: personally observing and directing the placement of his artillery. On 9 October, the general had the honor, and no doubt the pleasure, of putting "the match to the first gun." The entire American line erupted in flame and smoke. The barrage was relentless. According to Continental army Surgeon James Thatcher, "the whole peninsula trembles under the incessant thunderings of our infernal machines." Defiant to the end, the British troops endured the bombardment for eight more days before Cornwallis sent Washington word that he wished "to settle terms for the surrender of the posts of York and Gloucester." Washington, animated by "an ardent desire to spare the further effusion of blood," acquiesced. Lord Cornwallis's American campaigns were over.⁵⁷

With his opponent's position totally surrounded and subject to cannonade by land and sea, Washington could have demanded Cornwallis's unconditional surrender; instead the American general promised Cornwallis that "the same honors will be granted to the surrendering army as were granted to the garrison of Charlestown." The men would be prisoners of war, but they could expect "the benevolent treatment of prisoners which is invariably observed by the Americans." Aware of the ordeal of the Convention army, this last promise must have been little comfort to the besieged Britons. Nonetheless, Washington's terms were nothing to balk at: "the officers shall be indulged in retaining their side arms and the officers and soldiers may preserve their baggage and effects." More importantly for the common soldiers, they were to be "supplied with the same rations of provisions as are allotted to the soldiers in the service of America." As soon as

⁵⁷ For the effects of disease on Cornwallis's garrison and the conduct of the siege, see J.R. McNeil *Mosquito Empires: Ecology and War in the Greater Caribbean, 1620-1914* (Cambridge: Cambridge University Press, 2010); Thatcher, *Military Journal*, 283, 286; Cornwallis to Washington. October 17th, 1781. York in Virginia. *Cornwallis Papers*, 6:112; Washington to Cornwallis. October 17th, 1781. Camp before York. *Cornwallis Papers*, 6:113. For more detailed narratives of the siege see Lengel, *General George*, 335-344, Morrill, *Southern Campaigns*, 171-184, Grainger, *The Battle of Yorktown*, 93-149.

convenient, the soldiers would march to internment "in Virginia, Maryland or Pennsylvania," while the bulk of the officers were "permitted to go on parole" to England or New York. Cornwallis himself could take ship back to New York, there to be paroled to England, as soon as convenient. Only a handful of staff officers and one junior officer for each fifty soldiers were required "to reside near their respective regiments, to visit them frequently and be witness of their treatment." Although the garrison was not granted the full honors of war— they could not surrender with their flags flying—the American general did allow Cornwallis's dragoons to exit their entrenchments "with their swords drawn, [and] trumpets sounding." These terms were as generous as the troops could hope for under the circumstances. One of Cornwallis's Hessian soldiers, Stephen Popp, recorded the feelings of his comrades: "We were all glad and happy that this siege had finally come to an end and that it had turned out to be such a reasonable truce."⁵⁸

At four o'clock in the afternoon on October 19, 1781, Yorktown's combined garrison of British and Hessian troops, encompassing roughly seven thousand men, marched out of their entrenchments to surrender to the Franco-American besiegers. Flanked on either side of the road by French and American soldiers, Cornwallis's army marched to an open field outside the siege lines and laid down their arms in defeat. No taunts or shouts of joy could be heard from the ranks of the victorious allies: a "universal silence and order prevailed." To Captain Ewald, it was a "melancholy parade." Surgeon Thatcher noted that "many of the soldiers manifested a *sullen* temper, throwing their arms on the pile with violence, as if determined to render them useless." While the soldiers

⁵⁸ Washington to Cornwallis. October 18th, 1781. Camp before York. *Cornwallis Papers*, 6:114; Articles of Capitulation. October 19th, 1781. *Cornwallis Papers*, 6:119. Popp was a corporal at the time of his capture at Yorktown. *A Hessian Soldier in the American Revolution: The Diary of Stephan Popp*, Reinhart J. Pope, trans. (Private Printing, 1953), 25.

surrendered their weapons, General Charles O'Hara, standing in for Cornwallis who was "pretending indisposition" according to Thatcher, offered the earl's sword to his fellow European officer, General Rochambeau. Demurring in deference to his allies, Rochambeau motioned to Washington who in turn instructed O'Hara to give the sword to General Benjamin Lincoln. By allowing Lincoln to accept the surrender, Washington symbolically wiped away the shame of Charleston. The conquered had become the conqueror.⁵⁹

Unlike the soldiers of Burgoyne's army who had capitulated to an American force composed largely of New England militiamen, Cornwallis's troops could take comfort in the knowledge that they were surrendering to fellow professionals. The presence of the French army, and the strict accordance to European custom during the ritual of surrender, eased the defeated men's humiliation. Captain Ewald observed that "after the troops were surrendered into captivity, every officer was greeted by the French generals and officers with the greatest courtesy...One scarcely knew whether he was among his friends or foes." Similarly, British Captain Samuel Graham remembered that he received "much courtesy from the French" officers who offered him generous loans as well as hospitality. In the evening after the surrender, the French officers lavishly entertained their British and German counterparts, excluding their American allies. Ewald thought "that the French officers preferred the company of the English, Anspach, and Hessian officers to

⁵⁹ There is some dispute about the total number of prisoners who surrendered at Yorktown. Thomas Durie, the deputy commissary of prisoners with Washington's army, made a "General Return of Officers and Privates Taken Prisoner" on October 19th. He claimed there were 7, 171 not counting naval prisoners, who according to the articles of capitulation, were prisoners of the French. Another return by Durie enclosed in Washington's letter to Congress of October 27th, 1781 lists 6,935 land prisoners and 2,000 seamen that were turned over to the French. The list also claims there were 80 "followers of the army. See [Diary entry:20 October 1781], n.1, *Founders Online*; Thatcher, *Military Journal*, 289, 290; Ewald, *Diary*, 339.

that of their own allies," who were clearly bothered by the camaraderie among the Europeans.⁶⁰

The Americans were in no mood to fraternize with their erstwhile foes. Ewald sensed anger and a desire for revenge from his American guards. As he phrased it, "the American officer, like his soldier, hates his foes more than we do." The root of the animosity was clear. The British had "practiced the most abominable enormities...spread[ing] terror and desolation throughout the Southern states," according to Thatcher. The French priest abbé Claude Robin feared for the British prisoners who "had to bear a great deal from the Americans, who seemed resolved to take ample vengeance for the robberies and murders that had been perpetrated in their habitations." Robin's concerns were well founded. An American militia colonel who had been a prisoner of the British encouraged his comrades to vent their anger on the prisoners. "Boys, retaliate" he commanded. "These are the very men that plundered our men, and used them so badly." Washington's decision to separate the prisoners from his army prevented any widespread abuse, but the prisoners knew all too well that the Americans yearned to "steal or plunder or otherwise abuse us as is their usual practice." The European-style siege and surrender ceremony belied the fact that this war was not a limited and restrained conflict anymore; it was a war of vengeance.⁶¹

When news of the victory reached Congress, the members' exuberance was quickly subsumed by concern over the generous terms Washington had granted

⁶⁰ Ewald, *Diary*, 342; James J. Graham, ed., *Memoir of General Graham...* (Edinburgh: R. & R. Clark, 1862), 64-65; Ewald, *Diary*, 342.

⁶¹ Ewald, *Diary*, 342; Abbé Claude Robin, *New Travels Through North-America...* (Philadelphia: Robert Bell, 1783), 65; The Journal of Colonel Daniel Trabue transcribed in Lillie DuPuy VanCulin Harper ed., *Colonial Men and Times...* (Philadelphia, PA: Innes & Sons, 1916), 115; Johann Conrad Döhla, *A Hessian Diary of the American Revolution*, Bruce E. Burgoyne, trans., (Norman, OK: University of Oklahoma Press, 1990), 178.

Cornwallis. Although the articles of capitulation were no more generous than those "allowed to our People at Charles Town," Washington had failed to account for the fact that the British had violated those terms repeatedly. By negating the American militia prisoners' paroles and by executing Colonel Hayne, as well as numerous other American prisoners, the British had demonstrated once again that they could not be trusted. Many in Congress believed that the time was ripe to exact retribution: placating their outraged constituents and demonstrating to the world that the United States was a force with which to be reckoned. When Congressman Elias Boudinot, a man who had seen British cruelty first hand while serving as commissary general of prisoners, received word of the capitulation, he feared the terms were "rather too favourable." Reacting to the concern of his fellow members, Boudinot gathered a committee to investigate "the motives which led to the several Articles of the Capitulation."⁶²

Conspicuously absent from Boudinot's committee, the delegates from South Carolina, whose state had suffered the most at the hands of Cornwallis's troops, were particularly infuriated. In a letter to Aedanus Burke, Arthur Middleton fumed: "It is d[amne]d hard that rascals should be parol'd" when they "deserve[d] hanging." Accusing Washington of having ignored the Renaissance political philosopher Niccolo Machiavelli's "Doctrine of retribution," Middleton urged Burke to "remember the Sufferings of our fellow men" and embrace "Retaliation." For Middleton, retaliation "alone is the only magic rod which converts cruelty into mercy and effects wonders."

⁶² Boudinot to William Livingston. October 24th, 1781. Philadelphia, PA. Paul H. Smith, *et al.*, eds., *Letters of Delegates to Congress, 1774-1789*. 25 volumes, Washington, D.C.: Library of Congress, 1976-2000), 18:163, hereafter cited as *LDC*. Tench Tilghman, Washington's aide who had brought Congress news of the capitulation, was questioned by the committee, which was comprised of Edmund Randolph, Elias Boudinot, James Mitchell Varnum, and Daniel Carroll. Tilghman to Washington. October 27th 1781. Philadelphia, PA. *PGW*. The ostensible task of the committee was to determine the most appropriate mode of thanking Washington and Rochambeau for their "illustrious work." *JCC*, 21:1071-72.

Unwilling to publically question the wisdom of Washington's decision so soon after a resounding victory, Boudinot's committee resolved to convey "the thanks of the United States in Congress assembled" to generals Washington and Rochambeau "for the wisdom and prudence manifested in the capitulation." Less publically, many members continued to "think no treatment could have been too severe for the Garrison." In the opinion of South Carolina delegate John Mathews, Cornwallis deserved to have his "neck stretched, as some small sacrifice to the manes of the numbers whose necks he has stretched."⁶³

The revolutionary press agreed with the irate congressmen. Even before his capture, newspapers across the continent had launched a concerted attack on Cornwallis's character and reputation. The *Pennsylvania Packet* named him "the British Cerberus:" a reference to the three-headed hound that guarded the gates of the underworld in Greek mythology. His "bloody-mindedness" had induced the British general to commit crimes so "heinous, that old Beelzebub himself would blush." The author anticipated with glee "the moment when terrible vengeance from heaven may come hurling down upon" him. A columnist for the *Impendent Chronicle* thought all Americans should be "astonished at the generous terms granted to Cornwallis and his army" in light of "the innumerable acts of barbarity, with which the Britons have stained themselves and the nation in the American war." In the opinion of the *Freeman's Journal*, Washington had done nothing less than grant "mild terms to *Satan's firstborn son*." Allowing Cornwallis to return to England on parole while American prisoners daily died in British prison hulks and jails was a "virtue too sublime" under the circumstances. One budding poet captured his countryman's quest for revenge best in a pithy verse: "For Hayne, for Hayne! No death

⁶³ Middleton to Burke. Undated, November 1781. *LDC*, 18:221; *JCC*, 21:1080; Tench Tilghman to Washington. October 27th 1781. Philadelphia, PA. PGW; John Mathews to Nathanael Greene. October 22nd, 1781. Philadelphia, PA. *LDC*, 18:153.

but thine atones; For thee, Cornwallis, how the gallows groans!" To wrathful revolutionaries everywhere, Yorktown looked like the ideal moment to enact "ample retaliation."⁶⁴

Despite the generosity of the articles of capitulation, retaliation was exactly what the British prisoners feared, and many seized the first opportunity to escape their would-be tormentors. Having already escaped from the Convention army, Sergeant Roger Lamb knew well the rigors of an American internment camp before his recapture at Yorktown. Rather than starve in another American prison camp, Lamb "determined to attempt [his] escape to New York." Fortunately for the British sergeant, confusion reigned in the aftermath of the siege, creating an ideal opportunity to run. One American officer colorfully described the "Scene of Confusion" in the days following the surrender: "British officers, and French Sailors, Soldiers, Marines, fatiguemen, boatmen, British Merchants, American Speculators, Jews & Infidels.—Negroes, British Misses, Soldiers trolls with a song etc. So be-mixed, be-Hurried, be-knave'd, be-frighted & be-Devil'd, that nothing Short of the Pen or the Pencil of Hogarth, could Possibly do them Justice to Delineate or Describe." Capitalizing on his captors' disorganization, Lamb managed to "elude the French and American sentinels" and make good his escape, for the time being.⁶⁵

⁶⁴ *Pennsylvania Packet*, September 6th, 1781; *Independent Chronicle*, November 29th, 1781; *Freeman's Journal*, November 7th, 1781.

⁶⁵ According to Justus Eggert, an enlisted soldier in the Ansbach-Bayreuth regiment who was captured at Yorktown, the prisoners expected retaliation for their depredations in the south and they were surprised by their initial generous treatment. *Memoir des Corporal Justus Eggertt vom Bayreuther Regiment, Brandenburg-Ansbach-Bayreuth* quoted in Krebs, "Approaching the Enemy," 353; Hagist, ed., *A British Soldier's Story*, 93; Journal of Lieutenant Enos Reeves. November 4th, 1781. York, Virginia. Enos Reeves Papers. Box 1. Duke University Special Collections; Hagist, *British Soldier's Story*, 93; *The Journal of Lieut. William Feltman...* (Philadelphia: Henry Carey Baird, 1853), 22.

Those less daring prisoners prepared themselves to march into American captivity. The articles of capitulation stipulated that the prisoners be confined in the interior parts of Virginia, Maryland, or Pennsylvania, but the last was already burdened with the prisoners of the Convention army. Lancaster alone had over fourteen hundred prisoners, "exclusive of women & children", to feed and house. Pleading with the Executive Council of Pennsylvania to remove the prisoners, a group of "burgesses and inhabitants" of the town claimed that the county was "exceedingly drained of Provisions for some years past" by all of the prisoners. Furthermore, "a most contagious Disorder [had] raged for some time" which "proved fatal to very many" of the prisoners. Pennsylvania simply could not take any more enemy captives. Cognizant of Pennsylvania's prisoner problems, Washington gave orders for the Yorktown prisoners to be divided into two sections: half would go to Winchester, Virginia and the other half to Fort Frederick in Maryland.⁶⁶

Setting out for their respective places of confinement on the morning of October 21st, the prisoners were escorted by members of the Virginia militia, who were none too thrilled about their assignment. In theory, Virginia's governor, Thomas Nelson, was responsible for providing the prisoners with provisions along their route, but few were to be had, so the governor empowered Virginia militia general Robert Lawson to impress supplies, as a military necessity, from the local inhabitants if the need arose. Apparently, Lawson's definition of necessity differed from that of the prisoners. Private Johann Conrad Döhla of the Bayreuth regiment complained of having "very little food to divide

⁶⁶ Petition and Memorial of the burgesses and inhabitants of the borough of Lancaster to the President & Supreme Executive Council of the Commonwealth of Pennsylvania. July 14th, 1781. Jasper Yeates Papers. Collection # 740. Series 2. Box 7. HSP; Washington to Abraham Skinner. October 25th, 1781. Camp at York. *Founders Online*.

and eat." The rations he did receive were insufficient for men expected to march all day and camp in the open, exposed to the elements. Those prisoners with hard currency could supplement their diets by patronizing the merchants and sutlers that flocked to the prisoners to sell their goods, but most of the prisoners had to subsist on "Indian bread," which Döhla found "very unfamiliar." Thankfully, the Virginia militia guards, who "were all from the upper parts of the state, called backwoodsmen," turned a blind eye to the prisoners' creative procurement of provisions from the tidewater plantations along their line of march. A Scottish officer, Captain Samuel Graham, remembered that the guards "did not scruple also to let us make free with a turnip field." Discipline was lax and desertion rampant.⁶⁷

For men already exhausted by a taxing summer campaign and an arduous siege, the march into the Virginia backcountry was grueling. Their earlier trials had not prepared them for the "miserable marching" on a diet of "poor provisions." Hessian prisoner Stephan Popp reported marching "18 to 20" miles a day, often in the rain. Compounding their predicament, the weather turned colder as the prisoners approached the Shenandoah River in early November. Forging the river in their only dry set of clothing, the soldiers thought they "would freeze to death" when they immersed dripping and shivering on the opposite bank. In Döhla's opinion, constant marching in cold wet clothes "caused all sorts of sickness" amongst the prisoners. Exhaustion and hunger slowed the pace of the prisoners' progress, and the sick and injured began to lag behind.

⁶⁷ The militia guard was commanded by general of the state militia of Virginia Robert Lawson. Militia officer St. George Tucker recorded was relieved to be "excus'd from this disagreeable Jaunt." "St. George Tucker's Journal of the Siege of Yorktown, 1781," Edward M. Riley, ed., *The William and Mary Quarterly*, Third Series, Vol. 5, No. 3 (Jul., 1948), 375-395, 394; Carpenter, Jr. "The Yorktown Prisoners," 7; Döhla, *A Hessian Diary*, 183; Graham, ed., *Memoir of General Graham*, 66. Deputy Commissary General of Prisoners Joseph Holmes reported that 125 British, Hessian, and loyalist prisoners escaped during the march to Winchester. Holmes to Colonel William Davies. November, 6th, 1781. Winchester, VA. *CVSP*, 2:578-9.

Frustrated, the guards fired on a party of British stragglers, "which resulted in one English prisoner being killed and three men wounded." As if their problems were not enough, the prisoners had to withstand constant harassment from angry onlookers. Hessian private Berthold Koch reported that "during the entire march, no matter where we went, men, women, and children...young and old, picked up stones and threw them at us as we marched along." In Koch's opinion, the Virginians sought vengeance against "the rascals, who killed [their] husbands, [and] fathers!" In the aftermath of Yorktown, the loyalist *Royal Gazette* opined that revolutionary Americans were "a high spirited and vengeful populace, elated with victory, and reeking with revenge."⁶⁸

To the prisoners' dismay and indignation, when the first contingent reached Winchester on 5 November, they discovered the barracks in complete disarray. Upon their arrival, Stephan Popp and his comrades "were amazed when we saw" the "old tumbledown barracks." Lieutenant Johann Prechtel from Anspach Bayreuth was shocked that the buildings "were truly very poorly put together" and "not half adequate for quartering the troops." Döhla described the structures as "numerous wretched huts built of wood and clay, most of which have no roofs or poor roofs, no cots, only poor fireplaces." Snow, rain, and biting wind coursed through the barrack's halls. Each room was crowded with between "twenty or thirty men" who "did not have room enough to stand. "Locked in like dogs," the prisoners had little choice but to make due with quarters that Döhla called "worse than the pig stalls and doghouses are in Germany."⁶⁹

⁶⁸ *Diary of Stephan Popp*, 30; Döhla, *A Hessian Diary*, 188, 184; Berthold Koch, *The Battle of Guilford Courthouse and the Siege and Surrender at Yorktown*, Bruce E. Burgoyne, trans., and ed., (Bowie, MD: Heritage Books, 2002), 23; *Royal Gazette*, March 30th, 1782.

⁶⁹ *Diary of Stephan Popp*, 31; Bruce E. Burgoyne, trans., and ed., *A Hessian Officer's Diary of the American Revolution* (Bowie, MD: Heritage Books, 2008), 230-31; Döhla, *A Hessian Diary*, 189.

Despite orders from Governor Thomas Nelson for the purpose, the barracks at Winchester had not been adequately repaired or prepared for the prisoners. The local commissary of prisoners, Colonel Joseph Holmes, informed the governor in late October that the barracks could hold only eight hundred men. Furthermore, Holmes could not persuade the town's craftsmen to build any other structures because the governor had still not paid them for building the barracks last year. If the prisoners wanted shelter, they would have to build it themselves Holmes regretted. Resigned, the prisoners tried to repair their cells as best they could, but tools and materials were in short supply. No one in town would so much as spare a hammer to help the prisoners build huts. Under the circumstances, Commissary Holmes had no alternative but to order over a thousand prisoners to make camp in the open without tents. It was not long before snow blanketed the ground, covering the men as they slept. British private John Robert Shaw recalled that at Winchester "we suffered much: our houses had no covering to shelter us from the inclemency of the weather; and we were exposed to cold, hunger and want of clothing; and all manner of ill treatment, insult and abuse."⁷⁰

The paucity of provisions in Winchester was even more dispiriting to the prisoners than their shoddy quarters. Because local farmers refused to trade their produce for promises of future remuneration, Commissary Holmes had not been able to establish a sufficient store of food at the barracks. The demoralized and downtrodden men pleaded with their American captors for foodstuffs that simply did not exist. Rations "were meted out to us very sparingly and of poor quality," Döhla griped. "We received absolutely no

⁷⁰ Holmes to Nelson. October 26th, 1781. Winchester, VA. *CVSP*, 2:569-570. Commissary Holmes claimed the townspeople would not provide him with tools or assistance because "no person here will Trust the Public with a shilling's worth, and paper money has no Kind of circulation in this side [of] the blue ridge." Holmes to Colonel William Davies. November, 64th, 1781. Winchester, VA. *CVSP*, 2:579; Teagarden and Crabtree, eds., *John Robert Shaw*, 45.

bread except for an occasional uncooked Indian bread." Merchants in town were more than pleased to accept the prisoners' hard currency for goods at drastically inflated prices, but all shunned Congress's paper money. Those prisoners without solid coin went hungry. As Stephan Popp put it, "Hunger and cold we had daily in abundance."⁷¹

Although the prisoners themselves were unaware, their hunger pangs were the byproduct of a fundamental disagreement between Congress and the government of Virginia. Years of printing unbacked currency had resulted in extensive inflation, and despite significant loans from France and other allied European powers, Congress was broke. Completely incapable of providing for the prisoners' needs, Congress looked to the government of Virginia to take responsibility for the prisoners. Having already supplied the Convention troops for years, Virginia's governor and Board of War were in no mood to be cooperative. Determined to protect the state's financial future, the commissioner of Virginia's Board of War, William Davies, told Commissary Holmes that "it is the particular duty of Major Forsyth the continental commissary of provisions to make the necessary purchases and procure the proper supplies for the prisoners at Winchester." Davies declared that he would "always be much averse to adopt any step that will have a tendency to throw the burthun [*sic*] of supplying these men on Virginia" In a letter to Congress's quarter master general, Timothy Pickering, Virginia Major Richard Claiborne was even more explicit: the "government [of Virginia] decline advancing any thing farther for the Continent." The prisoners' could expect little help from the state of Virginia.⁷²

⁷¹ Döhla, *A Hessian Diary*, 190; *Diary of Stephan Popp*, 31.

⁷² Davies to Holmes. December 17th, 1781. Virginia Board of War Letter-book. Misc. Reel 632, Library of Virginia; Extract from M. Clairborne's letter to Pickering dated at Richmond December 24th, 1781. Enclosed in Timothy Pickering to George Washington. January 17th, 1782," *Founders Online*.

Virginia's intransigence meant the prisoners' had to survive on next to nothing. Men sold anything they had, including the coats off their backs, to local farmers in exchange for food. They had little other option. As Döhla described on December 7, "the issue of rations is much behind schedule and we already were twenty days behind in our issue of flour, which was a bad situation." Exposure and malnutrition weakened the prisoners' immune systems, and predictably disease flourished. Lieutenant Prechtel noted the presence "of consumption in the barracks," which claimed the life of one of his grenadiers. Döhla reported that "the wife of musketeer [Georg] Meichel" and "Private [Johann Georg] Korn had also perished. Commissary Holmes knew that something had to be done or few of the prisoners would be left to see the spring."⁷³

Frustrated by the apparent lack of preparation on the part of the American commissaries, and by the townspeople's indifference to their soldiers' misery, British officers began to take matters into their own hands. Captain Graham, the senior British officer at the barracks, fired off a barrage of letters to anyone he thought might help his men. One such letter arrived at the nearby home of Daniel Morgan: the victor of Cowpens. Although the American general had resigned his commission, Graham hoped he would use his influence with Washington and Congress to relieve "the distresses of the Soldiers." In the meantime, Graham appealed to Holmes for permission to quarter his men in one of the town's five churches. Given the rapidly accumulating snow, the American commissary saw no reason to deny Graham's request. "Accordingly, 500 men were brought in [to the church], and the huts thus emptied were distributed among the other prisoners." For the first time since they left their entrenchments at Yorktown, the

⁷³ Döhla, *A Hessian Diary*, 192; Burgoyne, trans., and ed., *A Hessian Officer's Diary*, 233; Döhla, *A Hessian Diary*, 192-3.

prisoners all had shelter, dilapidated and cramped though it was.⁷⁴ When Morgan learned of Graham's intentions, he was furious at the British officer's temerity. To quarter Cornwallis's soldiers in a house of God was not only sacrilegious it was disrespectful to the memories of those Americans who had perished at their hands. In a stern letter of reproach, Morgan told Graham that "Col. Holmes had no Right to bring them to town, thay [*sic*] were ordered to the Barrack[s], and thare [*sic*] thay ought to have continued." Citing his own experience as a prisoner of the British during the Canadian campaign, Morgan claimed "I have been a prisoner as well as thay [*sic*], and was kept in close goale [*sic*] five month and twelve days; six and thirty officers and there [*sic*] servts in one room, so that when we lay down upon our straw we covered the whole floore [*sic*]." Considering the British treatment of American prisoners, Morgan thought Graham's men had "nothing to grumble at." Confident that his actions would meet with Washington's "approbation," Morgan ordered all of the prisoners back to the barracks. All Graham could do was continue his letter writing campaign, which to his dismay "had but little effect." According to one American officer, by Christmas 1781, "The prisoners at Winchester [were] in a calamitous situation."⁷⁵

Initially, Maryland seemed far more receptive to the second contingent of Yorktown prisoners than Virginia had been to the first. Unlike the government of Virginia that had shirked its responsibility to the prisoners, the State Council of Maryland appointed merchant George Murdock as a commissary with instructions to purchase "a

⁷⁴ Graham to Morgan. November 22nd, 1781. Wynchester [*sic*], Va. Enclosed within Morgan to Washington. November 25th, 1781. *Founders Online*; Graham, ed., *Memoir of General Graham*, 68.

⁷⁵ Morgan to Graham. November 28th, 1781. Saratoga, Va. Graham, ed., *Memoir of General Graham*, 69; Morgan to Washington. November 25th, 1781. *Founders Online*. Washington thanked Morgan for "the trouble you had taken with the prisoners of War" but gently chided him for overstepping his bounds. Washington to Morgan. December 12th, 1781. *Founders Online*; Extract from Major Claiborne's letter of December, 23d 1781. Dated at Richmond. Enclosed in Timothy Pickering to George Washington. January 17th, 1782," *Founders Online*.

sufficient Quantity of Supplies" for "at least 2000" men. The council was less forthcoming with instructions for where to house the prisoners. In his orders to the Continental Commissary General of prisoners, Abraham Skinner, Washington had suggested that the prisoners be confined at Fort Frederick, a Seven Years' War era stone fortification in western Maryland that had been used to confine prisoners from the Convention army. The fort, however, was in ruins. Skinner apprised Washington that "the barracks at Fort Frederick was [*sic*] insufficient for the reception of the prisoners—indeed they are almost totally destroyed and cannot be repaired." In Skinner's professional opinion as head commissary, the best option was to confine the prisoners in the stone barracks within the town of Frederick itself. In order to prepare the barracks for the prisoners, Skinner ordered a stockade erected around the buildings and a supply of "Beef & flour for about Six Weeks" put into storage. With the prisoners on their way, the Council soon realized that the barracks alone would be "insufficient to hold the Prisoners," so they authorized Colonel Philip Thomas to appropriate "the Poor's House, Logged Gaol and every other empty House proper for Barracks." If these buildings were still not sufficient to comfortably house the prisoners, Thomas had permission to "take Possession of any such Buildings which you may deem necessary."⁷⁶

Thomas and Murdock's orders were far more detailed than those Holmes had received in Winchester, but they were incapable of fully executing the Council's commands. The townspeople, who had lived amongst British prisoners since December 1777, were overwhelmed by the additional captives. The Convention troops had already

⁷⁶ Council of Maryland to George Murdock. November 2nd, 1781. *Archives of Maryland*, 45:659; Washington to Skinner. October 25th, 1781. York, VA. *Founders Online*; Skinner to Washington. November 23rd, 1781. Baltimore, MD. *Founders Online*; Council of Maryland to Colo. Philip Thomas. November 2nd, 1781. *Archives of Maryland*, 45:659-60.

divested the area of cattle and grain and damaged most of the public buildings in Frederick. According to one Frederick resident, the Convention prisoners had "been pilfering & robbing for several miles around the town." Another inhabitant described the neighbored as "continually plundered, owing as it is thought in great measure to the prisoners & Guards being so badly supplied with provisions." Compounding the problem, the town had provided numerous soldiers to serve in Greene's southern army, many of whom had fallen in action with Cornwallis' troops. The spirit of resentment ran high in Frederick. Sergeant Lamb, who had been recaptured during his escape attempt after the siege and brought to Frederick, recalled being "used in the most cruel manner" by his guards who were constantly "rejoicing in my distress." Explaining the "reason of the bad usage" he received, Lamb claimed that "this town had suffered much by the deaths of several young men, who had been killed during the war," which was the "source of general inveteracy to all British prisoners." Murdock and Thomas could count on little assistance in quartering and feeding the prisoners from the residents of Frederick who yearned for vengeance and restitution.⁷⁷

Just as at Winchester, when the first Yorktown prisoners arrived at Frederick on 4 November, they were appalled by their accommodations and provisions. According to Lamb, "our place of confinement was a most deplorable situation. Forty or fifty British soldiers crowded together in a small room." The men "huddled" together for warmth "as the winter was remarkably cold." The contingent's commander, Captain Eyre Coote, was deeply concerned for his men's health. He informed his superiors in New York that

⁷⁷ Andrew Krug, "'Such a Banditty You Never See Collected!': Frederick Town and the American Revolution," *Maryland Historical Magazine*, vol. 95, (2000), 5-28, 15; Fielder Gannt to Governor Thomas Lee. February 1, 1780. *Archives of Maryland*, 47:46; Baker Johnson to Governor Thomas Lee. February 17th, 1780. *Archives of Maryland*, 47:74; Hagist, *British Soldier's Story*, 97-99.

"when the whole arrive, our numbers here will amount to near Two Thousand men, & very sickly." The prisoners "suffer[ed] extremely for want of Blankets." Worse yet, Coote feared that his troops would not be "supplied [*sic*] with Provisions in the Winter, as there is no magazine here." The men had already gone "two or three days without meat." Officials in Maryland had done their best to acquire provisions, but there were simply none to be had. Commissary Thomas Price had purchased cattle from neighboring Virginia, but the Virginians, looking "to rid that State of the Trouble of maintaining them through the Winter," had sent him a herd that was "intirely [*sic*] unfit for Slaughter." At a loss for what to do, the Maryland Council was forced to admit that there were "many Difficulties and Impediments in providing for the British Prisoners...we are totally unprepared for their Reception."⁷⁸

Frigid and starving, the prisoners soon became restive. When American guards ordered a party of British prisoners to cut wood for their fires, the prisoners refused. Unwilling to brook revolt, the guards leveled their bayonets and charged at the prisoners. The guard's commander, Captain Montjoy Bayley, explained to Coote that his men had "been under the disagreeable necessity of making use of Violents [*sic*] to keep the prisoners in order." Coote did not see it that way. As he protested to Commissary Skinner, "there has been three soldiers wounded by the Militia with Bayonets, and I am induced to believe those men did not deserve that Treatment." Predictably, Coote's protest availed him nothing. Maryland's Commissary of Prisoners, Colonel Moses Rawlings, informed him that not only would the guards not be prosecuted, but that the

⁷⁸ Hagist, *British Soldier's Story*, 97; Coote to Adjutant General Oliver De Lancey. November 4th, 1781. Fredrick Town, MD. Sir Eyre Coote Papers. Clements Library; Thomas Price to Governor Lee. November 23rd, 1781. *Archives of Maryland*, 47:555; Council of Maryland to Colo. Philip Thomas. November 10th, 1781. *Archives of Maryland*, 45:665.

prisoners should expect equally harsh treatment in the future. Rawlings was resolute in his determination "to punish [the prisoners] Agreeable to Offences." American troops could and would use violence to control the restless captives. Rawlings knew that violence alone would not solve his problem. The prisoners' situation was unsustainable. If fresh provisions did not arrive soon, he would have a full-scale rebellion on his hands.⁷⁹

While the prisoners struggled to survive the increasingly deplorable conditions of their confinement, the governments of Virginia and Maryland took steps to rid themselves of the captives. In mid-December, the Council of Maryland sent word to Congress's superintendent of finance, Robert Morris, "that from the exhausted Situation of this State, it is not within the Compass of our Abilities to subsist the Prisoners quartered upon us, without your Assistance." If Congress could not produce £20,000 in hard currency, the prisoners would have to be moved. The Virginia House of Delegates was even more determined to see the prisoners leave. The House resolved "that provisions ought not to be impressed for the support of the British prisoners after the first day of January." Without impressments, the prisoners could not possibly be fed, even at a bare subsistence level. The Virginia House further resolved to inform Congress "of the inability of this country in the present exhausted state of its treasury to furnish" the prisoners at all. The sooner the prisoners departed the better.⁸⁰

⁷⁹ Captain Bayley to Coote. December 1st, 1781. Frederick Town, MD. Coote Papers, Clements Library; Coote to Abraham Skinner. December 2nd, 1781. Frederick, MD. Coote Papers, Clements Library; Rawlings told Washington that he "inform'd the Officers this morning that unless their men behav'd better than they have done hitherto, that we should Continue to punish them Agreeable to Offences." Rawlings to Washington. December 2nd, 1781. Fredrick Town, MD. *Founders Online*.

⁸⁰ Council of Maryland to Robert Morris. December 14th, 1781. *Archives of Maryland*, 48:24; Resolves of the House Of Delegates of the Commonwealth of Virginia. November 29th, 1781. *PCC*, Item 75, p. 351.

Just as had been the case with the Convention army, congressional authorities settled on relocation. Morris, acting on behalf of Congress, responded to Virginia's ultimatum by proposing to transport the prisoners "from Winchester to Frederick [Md.]." Congress followed up on Morris' suggestion by resolving to send half of the Yorktown prisoners to Frederick and half to Lancaster and York in Pennsylvania where they would be confined alongside the Convention prisoners. Once settled in these locations, the office of the Secretary at War, which had been established by Congress in February 1781, would take responsibility for their maintenance. In order to placate the Council of Maryland, Secretary at War Benjamin Lincoln promised that only the German prisoners, who were deemed by all concerned to be less of a security risk than their British comrades, would be housed in Maryland. "Convinced that a strict hand will be necessary over the British," Lincoln ordered the British prisoners to be "closely confined under Continental Guards" at Lancaster. The move was slated to take place in January, as soon as adequate wagons and guards could be assembled.⁸¹

The prospect of a second winter march so soon after their arrival in Winchester greatly distressed the prisoners in Virginia. Commissary Holmes had finally succeeded in securing shelter for the remaining prisoners, and he regretted "the hardship & difficulty" they would "encounter on the March" due to the "extreme coldness of the season." The men were "almost as naked as the hour they were born, & not an ounce of animal food" was to be had for them. Without adequate provisions and clothing, how could they be expected to make another winter march? As he confessed to Colonel

⁸¹ Instruction to Virginia Delegates, 29 November 1781. n.1. *Founders Online*; JCC, 21:1164. For background on the formation of the office of Secretary at War see Lucille E. Horgan, *Forged in War: The Continental Congress and the Origin of Military Supply* (Westport, CT: Greenwood Press, 2002) 44-8; Benjamin Lincoln to the County Lieutenant of Frederick, VA. December 12th, 1781. *CVSP*, 2:653; Washington to Moses Rawlings. December 12th, 1781. Philadelphia, PA. *Founders Online*.

James Wood, "it seems to shock the feelings of humanity to drive out of a warm habitation a poor creature stark naked in such a season." Holmes' appeal on humanitarian grounds had little traction with Virginia's governor, who could not wait to see the prisoners depart. Consequently, on January 27th, 1782, the prisoners marched out of Winchester amid the worst snow storm they had yet encountered. Lieutenant Prechtel reported that during the march, "three English private soldiers froze to death" because they had "to camp in the woods on the snow." Stephan Popp left this vivid account of the agonizing march to Frederick:

The first day we made a march of 12 miles, and then camped out in the open snow. We did make large fires, but still could not keep warm, because of the great cold. The snow was up to our knees where we had to remain over night. The sharp wind continued all night without letup, so that we believed we would all freeze. Besides, we were poorly clothed...many had sold their uniforms and everything else out of poverty, just to stave off hunger...many had wrapped their feet in plain rags. But they had to march along too, so it wasn't long before their feet were exposed and were completely frozen.⁸²

The British prisoners, despised by the militia guards who had been habituated to think of all British soldiers as barbarians, had to contend with constant abuse as well as nature's trials during the march. According to Private Shaw, "the cruelty of this new guard exceeded anything we had yet seen; their conduct was indeed shameful and altogether incompatible with the profession of either soldiers or christians [*sic*]; they drove us like so many bullocks to the slaughter." He claimed that the captain of the guard "broke his broad sword by cutting and slashing the prisoners, who were too much weakened by hunger and former ill treatment to keep up in the march." Shaw and his

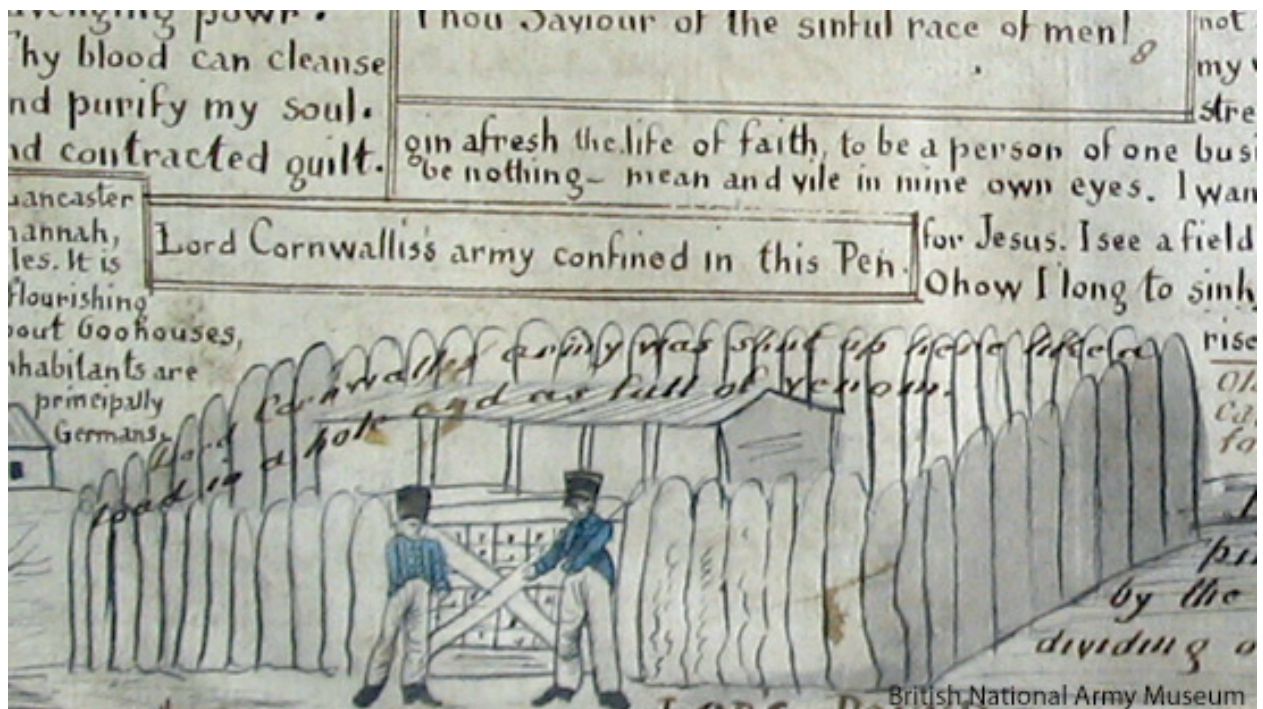
⁸² Holmes to Wood. January 24th, 1782. Winchester, VA. "As Others Saw Us," *Tyler's Quarterly Historical and Genealogical Magazine*, vol. 3, no. 1., 6-13, 13; Burgoyne, trans., and ed., *A Hessian Officer's Diary*, 234-5; *Diary of Stephan Popp*, 31-2.

comrades' only consolation was the hope that Pennsylvania would bring better rations, superior quarters, and speedy release "from such cruel bondage."⁸³

Arrived at their new prison camps in early February 1782, both the German and British prisoners were profoundly distressed to discover that the conditions of their confinement were not much improved. Stephan Popp observed that "as far as our quarters were concerned they were all much in ruins." He and thirty-nine of his fellows were "too thickly quartered" in the barracks; they were "always bumping [one] another." Private Koch's entire company shared one room in the "poorhouse" that "was so small that no one could lie down." All were covered with "vermin" that were "so numerous we could hardly bear it." Döhla remembered that "frequent epidemics occurred, and bugs and lice in great numbers appeared in our tattered clothing." Things were much the same at Lancaster and York where "the soldiers of lord Cornwallis's army were closely confined in their pen," according to Lamb. Captain Graham described the barracks at Lancaster as "surrounded by a high stockade, and strictly guarded." Years after the war, Sergeant Lamb sketched a depiction of his "Pen," emphasizing the makeshift and cramped character of the prison (Fig.4). While the German prisoners in Lancaster were eventually allowed to hire their labor to local farmers, and thus escape the cramped barracks, the British prisoners were closely confined and forbidden to leave the stockade for any purpose. In a note scribbled on the drawing, Lamb summarized the seething resentment of his fellow prisoners: "Lord Cornwallis' army was shut up here like a toad in a hole and as full of venom." The prisoners' sole remaining hope was that Congress

⁸³ Teagarden and Crabtree, eds., *John Robert Shaw*, 46.

would agree to exchange them for the American captives in New York. They would be disappointed once again.⁸⁴



(Fig. 4)
Scrapbook compiled by Roger Lamb, Circa 1800,
(British National Army Museum, Accession Number 2010-11-16)

Soon after he received word of the terms of capitulation at Yorktown, Clinton reached out to Washington "to treat for the Exchange" of Cornwallis and his army. Although the two generals had never before been able to reach an agreement on a general cartel, Clinton was confident that the time was ripe for a large scale exchange. Many of the American senior officers from Charleston remained un-exchanged, and Washington had earlier expressed concern for the captive American sailors in New York. Clinton was particularly anxious to exchange Cornwallis, both to prevent the earl from being recalled from his parole at the capricious whim of Congress and to forestall any claim that he was

⁸⁴ *Diary of Stephan Popp*, 33; Koch, *The Battle of Guilford Courthouse*, 24; *Diary of Stephan Popp*, 33; Döhla, *A Hessian Diary*, 201; Hagist, *British Soldier's Story*, 100; Graham, ed., *Memoir of General Graham*, 73.

inattentive to Cornwallis's case because of personal enmity. Cornwallis had informed Clinton that Washington was willing to exchange him for the former president of the Continental Congress, and principal author of the nullification of the Convention of Saratoga, Henry Laurens. En route to France to serve in a diplomatic capacity, Laurens had been captured in September 1780 by the Royal navy. Instead of treating him as a prisoner of war, British authorities locked the South Carolinian in the Tower of London on charges of treason. Exchanging Laurens for Cornwallis, though technically unorthodox since the American did not hold military rank, was not without precedent. Clinton was happy to acquiesce to the swap, but he was also willing to exchange Cornwallis by composition: that is to trade several American officers of lesser rank for the British general. Washington responded with assurances of his intention to appoint commissioners who were "fully authorized to treat [for] the Exchange of Lord Cornwallis and the Honble [*sic*] Mr Laurens," but he could give no "assurance His Lordship should be exchanged for Mr Laurens" because the matter rested with Congress, and Congress had other plans.⁸⁵

Just as they had opposed the generous terms of the capitulation of Yorktown, so too did the South Carolina congressional delegates object to exchanging Cornwallis on any terms whatsoever. In a series of notes he made in preparation for a speech before Congress, Arthur Middleton enumerated the many disadvantages he saw to liberating the British general. Some of his reasons had to do with Cornwallis's military acumen and Middleton's concern that he would return to America determined "to retrieve lost Honor," but the South Carolinian's principal objection centered on the manner in which

⁸⁵ Clinton to Washington. November 24th, 1781. *Founders Online*; Clinton to Washington. January 25th, 1781. *Founders Online*; Clinton to Washington. February 11th, 1782. *Founders Online*. See also, *LDC*, 18:357, n.1; Washington to Clinton. February 26th, 1782. *Founders Online*.

Cornwallis had waged the war in the south. To Middleton, Cornwallis was "a Barbarian. An Infringer [of] Capitulations, sacred." Releasing Cornwallis would deny the people of South Carolina their longed-for vengeance. He knew his constituents; he knew their anger, and their thirst for revenge. He knew that it would "affect the people [of the] South to see a Beast let Loose." In Middleton's estimation, Cornwallis's "nonexchange [was the] only mode of retaliating for his misdeeds and corrects the mild but impolitic Capitulation of York Town."⁸⁶

Middleton was not alone in his determination to prevent the earl's release. On February 18, 1782, Congress passed a secret resolve "prohibiting the exchange of Lieut[t] General Lord Cornwallis." Washington was puzzled by Congress's decision. He knew that the British would never agree to a cartel that specifically excluded Cornwallis. In a letter of protest to Congress's president, John Hanson, Washington confessed feeling "so exceedingly embarrassed by the operation of the Secret Resolve." To detain Cornwallis when he could so easily be exchanged would seem like "a conduct so apparently strange" to the American prisoners who expected imminent release. The American general believed that the resolve would "operate against the public interest" in the long run.⁸⁷

Confident of failure, Washington nonetheless proceeded with exchange negotiations. The general instructed Commissary Skinner that when meeting with the British commissary, he would have "to wave the exchange of Lord Cornwallis for the present... in as delicate a manner as possible." Predictably, Skinner's efforts were of little avail. He apologized to Washington that British Commissary Joshua Loring

⁸⁶ Arthur Middleton's Notes for a Speech in Congress. February [23rd?], 1782. *LDC*, 18:355, 357.

⁸⁷ Washington to John Hanson. February 20th, 1782. *Founders Online*. For the actual resolve which authorized Washington to engage in negotiations for a general cartel of exchange but was not to be "construed to authorize the exchange of Lieutenant General Cornwallis by composition." See *JCC*, 22:776-77; Washington to Holmes. February 20th, 1782. Philadelphia, PA. *PGW*.

"refuse[d] to Exchange the whole of our Officers without reserving a certain Number of them, equal to the Value of His Lordship." Clinton still hoped to regain Cornwallis, now on parole in England, by trading him for a composition of several junior American officers. Unsure of how to proceed, Washington pleaded with Congress to reverse its decision on the earl. As he later explained to John Laurens, whose father still occupied a cell in the Tower of London, "I am sorry to inform you, that upon my arrival at Philadelphia, and for a long time after I had been there, I experienced the greatest disinclination in Congress to the exchange of Lord Cornwallis; upon any terms." For Congress, preventing Cornwallis's exchange was a symbolic gesture of retaliation for the earl's conduct of the war in the south.⁸⁸

Mindful of his position as Congress's subordinate, but deeply concerned for the welfare of his officers in British hands, Washington continued to press Congress for an exchange that encompassed the earl. Finally, after a long debate in which Middleton argued that Cornwallis "ought not to be exchanged by composition at this time, not from any apprehensions of his influence or superior abilities; but because they look upon him not in the light of a British general, but a barbarian," Congress relented, but not before tying his release to several perquisites to which the British were unlikely to agree. Washington could exchange Cornwallis by composition only if the British first released Henry Laurens on parole and discharged their debt for the subsistence of the Convention army. If Clinton would not agree to these terms, Congress would cut the British prisoners' rations and compel them "to work for their livelihood." The latter proviso was a direct violation of the terms of the capitulation of Yorktown, which guaranteed the

⁸⁸ Washington to Skinner. December 5th, 1781. *Founders Online*; Skinner to Washington. February 18th, 1782. *Founders Online*; Washington to John Laurens. April 22nd, 1782. *Founders Online*.

British prisoners the same rate of rations as the Continental army. When Washington's commissioners, Gouverneur Morris and Henry Knox, met with their British counterparts at Elizabethtown, NJ in late March, 1782, they did so with their hands tied. Washington and his commissioners were well aware that Clinton would never agree to pay the £200,000 Congress demanded for the subsistence of men he believed illicitly detained. Negotiations continued for weeks but amounted to naught. Just as in the case of the Convention troops, the men of Cornwallis's army would never be exchanged.⁸⁹

While the commissioners fruitlessly negotiated at Elizabethtown, a "regrettable incident," known to historians as "the Asgill Affair," roused the indignation of many revolutionary Americans to a fever pitch. On April 12, 1782, a party of armed loyalists under the command of Captain Richard Lippincott executed American Captain Joshua Huddy near Sandy Hook, New Jersey. Acting under directions from the newly formed Board of Associated Loyalists in New York, Lippincott had Huddy hanged as an act of retaliation for the execution of loyalist Philip White in late March. Reportedly, Lippincott's men affixed a sign to the prisoner before hanging him that read: "Up goes Huddy for Phillip White." To loyalists, Lippincott's actions were nothing more than proportional retaliation. To the irate inhabitants of Monmouth County, Huddy's death was a "horrid and almost unparalleled murder." Pointing to a congressional resolve promising to "take such exemplary vengeance" on the enemy in order to arrest "their present career of barbarity," the Monmouth residents demanded that Washington "bring a

⁸⁹ *JCC*, 22:93, 94; Washington to Henry Knox. March 11th, 1782. *Founders Online*. See also, Joseph J. Casino, "Elizabethtown 1782: The Prisoners-Of-War Negotiations and the Pawns of War," *New Jersey History*, Vol. 102, No.1-2, (1984), 1-35, especially 12-18. Lord Cornwallis himself was never officially exchanged. The British released Henry Laurens in March, 1782, but Congress held on to Cornwallis until Benjamin Franklin, acting independently in France, agreed to absolve Cornwallis's parole. "Franklin: Discharge of Cornwallis from His Parole, 9 June 1782," *Founders Online*.

British officer of the same rank to a similar end." If Washington did not act, they would take matters into their own hands. The *Freeman's Journal* reported that "the people of Monmouth were determined to retaliate;" they even had an officer in mind.⁹⁰

Outraged though he was, Washington had no desire to execute an innocent British officer at a time when peace negotiations were on the horizon. He begged Clinton to surrender Lippincott to American authorities for trial. Washington must have realized, however, that Clinton could not turn over Lippincott without repudiating the Board of Associated Loyalists and infuriating all of the king's friends. Clinton promised Washington that he would order "a strict inquiry to be made" and bring any perpetrators "to immediate trial," but Washington knew this promise would never placate those who demanded retribution. Fanning the fire of vengeance, newspapers across the country demanded retaliatory justice for Huddy. For many, his death came to personify British cruelty and perfidy. British prisoner Captain Graham remembered that "in all the papers we observed many inflammatory paragraphs calling upon General Washington and Congress to retaliate for cruelties exercised upon the Americans." Washington could not ignore the people's demands; he had little option but to act decisively.⁹¹

After conferring with his officers, Washington determined that "a British officer of equal Rank, must atone for the Death of the unfortunate Huddy." On May 3, 1782,

⁹⁰ Major Carl Baurmeister of the Hessian forces referred to the execution of Huddy as "a regrettable incident." Bernahard A. Uhlendorf, trans., *Revolution in America: Confidential Letters and Journals 1776-1784 of Adjutant General Major Baurmeister of the Hessian Forces* (New Brunswick: Rutgers University Press, 1957), 502; *Independent Chronicle*, May 9th, 1782; John Covenhoven and other inhabitants of the county of Monmouth, New Jersey to Washington. April 14th, 1782. Monmouth, NJ. *Founders Online*; John Covenhoven and other inhabitants of the county of Monmouth, New Jersey to Washington. April 14th, 1782. Monmouth, NJ. *Founders Online*. According to the *Freeman's Journal*, Monmouth residents had already detained a "capt. Tilton" for the purpose of retaliation. *Freeman's Journal*, April 17th, 1782.

⁹¹ Washington to Clinton. April 21st, 1782. *Founders Online*; Clinton to Washington. April 25th, 1782. New York. *Founders Online*; Graham, ed., *Memoir of General Graham*, 80. See also *New-Jersey Gazette*, April 24th, 1782.

Washington instructed Continental army Colonel Moses Hazen that because "the Enemy, persisting in that barbarous line of Conduct they have pursued during the course of this war, have lately most inhumanly Executed Capt. Joshua Huddy," he had no choice but to order Hazen to pick a British captain by lot "from among the Prisoners at any of the Posts either in Pennsylvania or Maryland" for the "disagreeable necessity" of retaliation. As fate would have it, the subject of revolutionary retribution would be one of the prisoners captured at Yorktown: the aristocratic, affluent, and well-connected nineteen-year-old Captain Charles Asgill.⁹²

When Washington received word of Asgill's selection, he immediately regretted the choice. The general had already executed one popular young British aristocrat, Major John André, as a spy, and he certainly did not relish sending another to his grave. Moreover, as a prisoner under the capitulation of Yorktown, Asgill was supposed to be exempt from any act of retaliation. The fourteenth article of the treaty stated that the terms could not be "infringed on pretence of reprisals." In a letter to Benjamin Lincoln, Washington admitted that "Colo. Hazen's sending an officer under the capitulation of York Town for the purpose of retaliation, has distressed me exceedingly." He had requested specifically that Hazen exempt both the Yorktown and Convention army prisoners, but Hazen had not been able to locate a suitable alternative. Washington was in a quandary. Executing Asgill would violate the treaty of capitulation and break his word to Cornwallis. On the other hand, "if some person is not sacrificed to the Manes of poor Huddy," Washington thought "the whole business will have the appearance of a

⁹² Washington to John Hanson. April 20th, 1782. *Founders Online*; Washington to John Brooks. April 19th, 1782. *Founders Online*. See also William M. Fowler, *American Crisis: George Washington and the Dangerous Two Years After Yorktown, 1781-1783* (New York: Walker & Company, 2011), 64-65; Washington to Hazen. May 3rd 1782. *Founders Online*.

farce." Congress had made it abundantly clear that it approved of retaliation; his own officers had advised him to be swift and decisive; and the people demanded blood. Former Congressman Robert Livingston of New York summarized the situation: "It is a melancholy reflection that the innocent must suffer for the guilty; but it is to be hoped this will prove mercy in the end, as it may bring the most savage nation in the world to reflect that their crimes will in the end fall upon their own heads." Unpleasant though it was, Washington was determined: Asgill would hang.⁹³

The British, for their part, had no intention of allowing Asgill to be sacrificed without a fight. Major James Gordon, Asgill's immediate superior at Lancaster, petitioned Congress, Washington, and Lincoln demanding the young man's release on the grounds that his death would be a violation of the articles of capitulation. Aware that the revolutionaries had violated treaties of capitulation in the past, Gordon went one step further; he appealed to the French ambassador in Philadelphia to intercede on Asgill's behalf. The Major hoped that the ambassador could get a letter to General Rochambeau or Admiral De Grasse who, as gentlemen and European officers, would undoubtedly be repulsed by the actions of their allies. Gordon's pleas worked; news of Asgill's fate soon circulated on the other side of the Atlantic. When the young man's mother heard of her son's sentence, she implored the French foreign minister, the Count de Vergennes, to use his "high influence in behalf of innocence, in the cause of justice, of humanity." Vergennes, "as a man of sensibility" who had fully imbibed the norms of Europe's culture of war, was deeply moved by her words. Acting with the blessing of his sovereign,

⁹³ Article 14 of the Capitulation of Yorktown. *Cornwallis Papers*, 6:121; Washington to Lincoln. June 5th, 1782. Newburgh, NY. *Founders Online*; Livingston to Francis Dana. May 29th, 1782. Philadelphia, PA. Francis Wharton, ed., *The Revolutionary Diplomatic Correspondence of the United States* (Washington, DC: Government Printing Office, 1889), 6 vols., 5:447.

Vergennes beseeched Washington "to deliver Mr. Asgill from the fate which threatens him." Killing the innocent was not justice, Vergennes argued. Instead, in his opinion, Washington should exercise "clemency" in order to put an end to the cycle of violence. The French minister's letter, though deferentially worded, was not a request. He reminded Washington that Asgill would never have been captured had it not been for French troops and French ships at Yorktown. Vergennes was confident that Washington would do the right thing.⁹⁴

Although he remained steadfast in his belief that "retaliation was apparently necessary," Washington, who had never been comfortable with the prospect of executing Asgill, looked to Congress for a final decision. Forwarding Vergennes letter to his civilian superiors, Washington confessed his conviction that the Asgill affair was "a great national concern, upon which an individual ought not to decide." In deference to their French allies, and to the peace negotiations then in process, the congressional delegates resolved on November 7, 1782 to release Asgill and to forgo retaliation for the time being.⁹⁵

Unappeased, the southern delegates sought to tie Asgill's liberation to a formal declaration of retaliatory warfare. They proposed a resolution that would authorize Washington and Greene "to cause suitable retaliation to be forthwith made on British officers without waiting for the directions from Congress on the subject." The resolution

⁹⁴ James Gordon to Washington. June 18th, 1782. Lancaster, PA. *Founders Online*; Graham, ed., *Memoir of General Graham*, 90; De Grasse to Benjamin Franklin. August 26th, 1782. Paris. *Founders Online*; Lady Asgill to Vergennes. July 18th, 1782. London. Graham ed., *Memoir of General Graham*, 102; Vergennes to Washington. July 29th, 1782. Versailles. *Founders Online*; Sarah Knott, "Sensibility and the American War for Independence," *The American Historical Review*, Vol. 109, No. 1 (February, 2004), 19-40, 37.

⁹⁵ Washington to James Duane. September 20th, 1782. Verplanks [*sic*] Point. *Founders Online*; Washington to John Hanson. August 19th, 1782. Newburg, NY. *Founders Online*; Washington to Hanson. October 25th, 1782. Head Quarters. *Founders Online*.

was apparently "espoused by many; with great warmth in particular by the Delegates of N.C. & S.C.," but in the end it was deemed impolitic and unnecessary given the military situation. The British had ceased offensive operations and were preparing to abandon Charleston. Proclaiming a unilateral policy of vengeance would only infuriate their allies and complicate the peace settlement. Instead, Congress directed Washington to inform Asgill that he was free to return to England on his parole.⁹⁶

French intervention saved Captain Asgill's life, but the remaining Yorktown prisoners were not so fortunate. The young officer's release did not temper the revolutionaries' enthusiasm for retribution nor Congress's decision to decline the prisoners' exchange for political purposes. But neither could Congress afford to continue holding the men without British reimbursement. Once it became clear that Clinton's replacement as commander-in-chief, British General Sir Guy Carleton, would never pay the Americans for the prisoners' expenses, Congress resolved to sell the German prisoners into indentured servitude and to provide all British prisoners with further reduced rations. In early May 1782, Robert Morris convened a meeting of senior revolutionaries, including Secretary at War Lincoln and General Henry Knox, to determine what to do with the Yorktown prisoners. After some debate, all present agreed that "the Hessian and other foreign Prisoners should be Sold, the British close confined and put to short allowance." Congress officially approved Morris' plan in early June.⁹⁷

American recruiters soon entered the Hessian barracks, eager to fill their quotas of recruits from among the well-disciplined Germans. Telling the prisoners that Congress

⁹⁶ *JCC*, 23:845-8. For the actual resolution see *JCC*, 23:719-20; James Madison to Edmund Randolph. November 5th, 1782. Philadelphia, PA. *Founders Online*; Washington to Asgill. November 13th, 1782. Head Quarters. *Founders Online*.

⁹⁷ James E. Ferguson, ed., *The Papers of Robert Morris, 1781-1784* (Pittsburgh: University of Pittsburgh Press, 1973-), 9 vols., 5:90, hereafter cited as *PRM*; *JCC*, 22:321.

could no longer afford to house or feed them, the American officers gave the German prisoners the choice of either enlisting into the Continental army for a term of three years or paying a fine of eighty Spanish dollars: an enormous sum for men who had not received their pay in months. If they could not pay, they could indenture themselves to local farmers or craftsmen who would remunerate Congress for the use of their labor. One Hessian sergeant claimed that "the prisoners were mistreated in order to make them enlist." Another group of Hessian prisoners informed their commander in New York that they were in "extreme despair" because the Americans had sent them a "barbarous proposition" to either pay up or indenture themselves. The American propositions, which effectively transformed "free soldiers" into slaves, "completely stunned" them. To the Hessians, it seems as if the Americans were determined to treat them "not like prisoners of war to a Christian Nation, but like wretches fallen into the hands of Barbarians."⁹⁸

Draconian no doubt, but at least the Germans had a choice; the British prisoners were rounded up and closely confined in jails, dungeons, and camps throughout Pennsylvania. On July 11, 1782, Congress ordered the Secretary at War to "have all the British prisoners of war closely confined, and to stop all issues of provision to the women and children who are with them." The soldiers' rations were also reduced again. Predictably, the jails soon became scenes of agony, anguish, and despair. Hessian adjutant general, Major Carl Leopold Baurmeister, claimed that "instead of twenty men per room, thirty men were packed together, which makes the condition of these people even worse. Eight hundred and eight-two English prisoners in Philadelphia endured their

⁹⁸ *JCC*, 22:316-17; *PRM*, 5:557; Krebs, "Approaching the Enemy," 395; Hesse-Hanau Sergeant Vaupel quoted in Krebs, "Approaching the Enemy," 401; Prisoners of the Regiment von Knyphausen to Colonel von Borck, quoted in Krebs, "Approaching the Enemy," 399-400; Translation of a Letter from Hessian Prisoners of War of the Regt. De Knyphausen in the Gaol at Philadelphia, July 28th, 1782. British Headquarters Papers. DLAR. Reel 24.

misery within even narrower confines." In October, a group of British prisoners begged Henry Knox to "consider our Masaurable [*sic*] Satuation [*sic*]." The men had "No Cloaths [*sic*] But is all moste [*sic*] Nacat [*sic*] for want [of] Cloathing [*sic*] and the coald [*sic*] weather is Coming on and we have No Releaf [*sic*] Heare [*sic*]." Knox could do nothing to help them without disobeying Congress. Pitying the "wretched creatures" deplorable confinement, Baumeister decried the Americans' "unreasonably revengeful" policy as "contrary...to the law of nations." As an aristocratic European officer, Baumeister could not comprehend what Congress and the American people knew all too well: Vattel and his laws had no place in a war of vengeance. For the past seven years, the revolutionaries had endured innumerable British violations of the laws of nations, and they were no longer afraid to return the favor.⁹⁹

The Yorktown prisoners' nineteen month ordeal finally came to an end when they received word in early May 1783 that Congress had ratified the preliminary articles of peace with Great Britain. Despite some opposition to ratification on the grounds that the prisoners should be held as security for British compliance with the treaty, on 15 April, Congress authorized Washington to "inform the Commander in Chief of the British forces in America that the U.S. are ready to liberate...all prisoners of war." The expense of holding the prisoners outweighed any political advantage that would be gained by detaining them. When news of their impending release reached the prisoners in Frederick, they were exuberant. The prisoners threw a raucous party in their barracks to celebrate their liberation and to honor the patron saint of England, Saint George. The

⁹⁹ *JCC*, 22:382; Uhlendorf, trans., *Revolution in America*, 518; Petition of Sergeant Samuel Caswell and six other prisoners to Henry Knox. October 9th, 1782. Henry Knox Papers. Roll 10, p. 43. Massachusetts Historical Society; Uhlendorf, trans., *Revolution in America*, 530, 569.

prisoners' toasts of "Hyroh [*sic*] for the King George! God save the King George" elicited the ire of their American guards. The American commander "sent in a large patrol and ordered it to beat [the prisoners] and arrest them." Four prisoners were fatally wounded in the altercation.¹⁰⁰

The death of their comrades could not dampen the remaining prisoners' enthusiasm. Private Döhla was elated by "the joyful news and long-wished-for and passionately awaited order, to begin our departure march." On May 13, 1782, Döhla and the German prisoners "marched out of the barracks at Frederick, having spent a year and three and one-half months here, wretchedly, very often hungry and thirsty." Stephan Popp was just happy that he and his friends "had lived to see the day of our release." Many of his fellows had not.¹⁰¹

Although poor record keeping on the part of the revolutionaries precludes any definitive accounting of the surviving Yorktown prisoners, Secretary Lincoln estimated that there were approximately 6,000 enemy prisoners, including women, children, and the Convention troops, remaining in American custody at war's end. Some of the best evidence of their mortality and desertion rates comes from German sources. Of the 89 members of Döhla's von Quesnoy company of Ansbach-Bayreuth troops who were captured at Yorktown, 73 were liberated that spring. Only five of Döhla's comrades are listed as deserters (5.6%), while eleven prisoners in the company died during captivity (12.4%). From the Hessian Regiment Von Bose's returns we learn that of the 365 common soldiers who surrendered at Yorktown, 104 men deserted (28.5%), while thirty-three soldiers (9%) perished in American custody. These numbers are not likely to be

¹⁰⁰ JCC, 24:251-2; Dixon, "Divided Authority," 302-05; Döhla, *A Hessian Diary*, 221.

¹⁰¹ Döhla, *A Hessian Diary*, 221, 222; *Diary of Stephan Popp*, 33.

representative of all of Cornwallis's army. The revolutionaries provided their German captives, who they deemed largely innocuous, with better provisions and accommodations than the British prisoners who were closely confined on meager rations for most of their captivity. From a sampling of the muster rolls of the British 80th Regiment of Foot, we learn that of the 48 private soldiers in Captain Arbuthnot's company, 15 died in American captivity (31%). Similarly, Captain George Cumine's company of the same regiment lost 15 of their 47 men during the same period (32%). The private soldiers of Major James Gordon's company were comparatively healthy: only 10 of their 47 succumbed in American hands (21%). To put these numbers in perspective, the mortality rate of Union prisoners of war at the notorious Confederate prison Andersonville was 28%. While we will never know exactly how many Yorktown prisoners perished in American hands, the prisoners' mortality rate was likely lower than that of the Convention army. The Yorktown prisoners were only in American custody for nineteen months, while the Conventioners were captives for five and a half years. From the extant records, it appears that in the final months of the war, the Yorktown prisoners' captivity was every bit as arduous as that of Burgoyne's troops.¹⁰²

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The war in the south was violent, extremely so, but it was not an anomaly. When General Clinton sailed south in the winter of 1780, he hoped to escape the cycle of violence that had characterized the war in the north. Largely untouched by war, the south

¹⁰² "Agreement for Liberating British Prisoners, 19 April 1783," *Founders Online*; Krebs, *A Generous and Merciful Enemy*, 248, table 8; Krebs, "Approaching the Enemy," 412; Muster Rolls of Captain Alexander Arbuthnot, Captain George Cumine, and Major James Gordon's companies of the 80th Regiment of Foot, June 1781-June 1783. W.O. 12/8454.

seemed the ideal location to practice a new policy: magnanimity. Yet his hopes were dashed, in part by his own misjudgment of the extent of southern loyalism, and in part by his officers' commitment to putting down the rebellion by force. Instead of pacification, Clinton inadvertently inaugurated a war of vengeance. For three years after the fall of Charleston, southern revolutionaries and loyalists persecuted each other with relentless fury. Quarter was often denied, and when irregular forces did take prisoners, they were victimized, tortured, and at times murdered. In short, "Lynch's law" replaced the law of nations. The arrival of French troops in 1781 changed the course of the war in the south, but only temporarily. For a brief period, French officers protected their British counterparts and ensured that the lenient terms of the capitulation of Yorktown were observed. But France's war was elsewhere: in the Caribbean, in the Mediterranean, and in India. Soon after Yorktown, Rochambeau's army departed. With French troops removed, Congress saw no reason to deny its constituents' demands for retribution: it held the Yorktown prisoners without exchange for the remainder of the war. These prisoners were either closely confined in deplorable conditions or sold into indentured servitude. Congress knew that the American people would never have approved their release. For many Americans, the Yorktown prisoners, along with their comrades in the Convention army, were the living embodiment of the radicalism of the revolutionary struggle. Eight years of bloody war had infected Americans, revolutionaries and loyalists alike, with the virulent contagion of vengeance for which peace alone was the remedy. Peace, however, could not hide the war's scars. With the war won and independence secured, the new republic's elite would attempt to conceal the conflict's violence in

patriotic rhetoric and myth-making, but for those who experienced and endured it, that violence could not be so quickly forgotten.

Chapter Six: The War at Sea

New England-born Samuel Curwen was no friend to American independence. Like many loyalists, Curwen's revulsion at the spirit of rebellion that gripped Britain's American colonies in the mid-1770's induced him to quit his native soil and seek the protection of England's Constitution, Parliament, and monarch on the other side of the Atlantic. Nevertheless, in February 1777 it was not concern over any American threat to the Constitution that worried Curwen, but rather the actions of Parliament. He noted that "the American high treason bill having passed...has raised an alarm in people's minds universally, as it suspends the *habeas corpus* act, that great bulwark of English liberty." Parliament, at the urging of Prime Minister Lord North and his Secretary of State for America Lord George Germain, had passed "a Bill to empower his Majesty to secure and detain Persons charged with, or suspected of, the Crime of High Treason committed in North America, or on the High Seas." In one stroke, Parliament transformed His Majesty's contumacious colonial subjects into traitors beyond the protection of traditional English legal safeguards. Curwen summarized the opinion of many in England when he wrote, "May the remains of English liberty and the Constitution not be overlooked and lost in this fatal quarrel."¹

The American High Treason Act had implications beyond its purported threat to the English Constitution; it articulated the British ministry's vision of the war in America. Americans captured in arms against their sovereign were rebels and traitors without any

¹ George A. Ward, ed., *The Journal and Letters of the Late Samuel Curwen...*, (New York: C.S. Francis and Company, 1842), 107.

legal standing. Although the act did not specifically condone summary justice, Britons and Americans alike knew that the customary fate for traitors was death by hanging. For many of the crown's officers in North America, only the king's generosity and the hope of peaceful reconciliation prevented the wholesale execution of captured Americans. From the beginning of the war Britain's army and navy, acting under Parliamentary orders, had refused their rebellious American adversaries the usual protections of legitimate belligerent status. With the passage of the High Treason Act, the further protection of legal recourse was also denied them. The act called on the king's officers to commit Americans taken at sea "to the common goal, or any other place of confinement." This was not simply a case of Parliamentary bravado. As Continental navy Captain John Paul Jones explained, "our cruel Enemies are enforceing [*sic*] an Act of their Parliament, by the indiscriminant confinement of our Subjects in English dungeon's [*sic*], not as Prisoners of War." In Jones's estimation, the British viewed the Americans as nothing more than "'Traitors,' & Pirates & 'Felons'! Whose Necks they wish to destain [*sic*] to the Cord!" While the ministry chose to forgo executing the king's maritime foes, the men were condemned upon capture to indefinite confinement on board overcrowded, noisome, and disease-infested prison ships from Halifax to Saint Augustine or in damp stone prisons in England and Scotland. Edwin Burrows estimates that over sixty-percent of American prisoners perished in British custody: a statistic unprecedented in eighteenth-century European warfare.²

² Although intended to combat the "acts of treason and piracy...committed upon the ships and goods of his Majesty's subjects," the High Treason Bill encompassed any "act of high treason, committed in any of the colonies, or on the high seas." Passed on March 3rd, 1777, the bill, now known as North's Act, remained in effect for the next five years. Cohen, *Yankee Sailors*, 27-29; Captain John Paul Jones to Robert Morris. December 11th, 1777, *The Ranger* off Nantes. William Bell Clark, William James Morgan, William S. Dudley, and Michael J. Crawford, eds., *Naval Documents of the American Revolution* (Washington,

American sailors serving on board private ships of war, or privateers, were the principal targets of the High Treason Act and consequently suffered the most at the hands of their foes. From the outset of the conflict, the British commanding general in America, Sir William Howe, desired that "a Distinction . . . be made between Prisoners taken on Shore and on the Sea," because in his opinion, privateering "will hurt us more effectually than any Thing they can do by Land." He hoped that sending American sailors "to suffer by the Hands of Justice" would "spread great Terror among the sea-faring People in this Country." British government officials on the other side of the Atlantic shared Howe's severe stance. Although privateering had a long tradition in European naval warfare, from the point of view of the British ministry these sailors combined indefensible rebellion with piratical cupidity, and they should be punished accordingly. The British would continue to deny American maritime prisoners either the recourse to British civil law or the customary protections of prisoner-of-war status until 1782; a decision that escalated the violence of the conflict precipitously.³

Much has been written about the insalubrious conditions on board the British prison hulks anchored in New York's Wallabout Bay, and although many of these accounts would benefit from a more nuanced reading of the sources, the general picture of British indifference and cruelty remains. In November 1782, over a year after Cornwallis' surrender at Yorktown and months after Parliament officially recognized American captives as prisoners of war, one Massachusetts privateer imprisoned on board

D.C.: Government Printing Office, 1996-Present), 11 vols., 10:1091-2. Hereafter cited as *NDAR*. For Burrow's calculations see Burrows, *Forgotten Patriots*, 64, 197-201, 315-317, n. 7-12.

³ Sir William Howe to Lord Dartmouth. Boston, MA. December 14th, 1775. *Proceedings of the Massachusetts Historical Society* (Boston, 1912), vol. 45: 16; On March 25th, 1782, Parliament finally relented and resolved that American prisoners were to be accorded all of the privileges of prisoner-of-war status "according to the custom and usage of war, and the law of nations." William R. Lindsey, "American Prisoners of War," *The Emporia State Research Studies*, Vol., 22, No., 1 (1973), 5-32, 6.

the prison ship HMS *Jersey* described his surroundings as “one of the worst places in the World, and the Prisoners are suffering; Sickly and dying daily not having the common necessaries of life.” His situation was far from unique. Packed into “the putrefied stagnated air of the hold of a vessel crowded with vermin” American seamen were forced to survive on two-thirds the subsistence allotted to British sailors. In reality, their provisions rarely amounted to even that much. The available foodstuffs were the refuse of the British commissary: often moldy, rotten, and maggot-infested. Poorly nourished and closely confined in stagnant air, the prisoners were easily susceptible to myriad contagions. Even the British Commissary for Naval Prisoners, David Sproat, admitted in September 1780 that “contagion, and death” were likely in store for the American sailors on board “the crowded Prison ships” were they not soon released. For the majority of the captured Americans, liberation would come too late.⁴

Given the treatment American maritime prisoners received at the hands of the British, how did the revolutionaries respond? What would become of British naval personnel and privateers in American custody as the war progressed? This chapter examines how the revolutionaries captured, confined, cared for, and eventually discharged British maritime prisoners over the course of the war. It contends that the revolutionaries adapted their deeply-ingrained cultural understandings about the practice of war at sea to the conditions of combating a reactionary enemy that not only denied

⁴ For the most recent account of the British treatment of American maritime prisoners see Burrows, *Forgotten Patriots*. William Russell to Mary Russell. November 25th, 1782, in Francis D. Cogliano, *American Maritime Prisoners: the Captivity of William Russell* (Annapolis, MD: Naval Institute Press, 2001), 142. Captured at Fort Washington in November 1776, James Little was put on board the *Grovesnor* prison ship, “where he was kept till into January following and suffered every inconvenience but death.” Pension application of James Little. W8256. Revolutionary War Pension Applications, Record Group 15. National Archives of the United States; Sproat had already released numerous American sailors because of fear of overcrowding and disease. David Sproat to Thomas Bradford. September 10th, 1780, New York. Thomas Bradford Papers. Naval Prisoners. Box 13 F 12. HSP.

Americans the customary protections of prisoner-of-war status by confining thousands of diseased and starving sailors in wretched conditions but also encouraged a sanguinary civil war on the high seas by licensing loyalist privateers. As the war progressed, and allegations of British and loyalist misconduct mounted, the revolutionaries began to re-envision their enemies as uncivilized and thus unworthy of the humane conventions of European naval warfare. Because American sailors suffered a disproportionate share of British abuse, captured British and loyalist mariners were prime targets for American retaliation. Constrained both financially and politically from ever establishing a centralized naval institution capable of enforcing policy for the treatment of maritime prisoners, Congress was forced to rely on local and state officials to superintend the prisoners. In this decentralized system, enemy sailors often endured a confinement far more severe than that of their terrestrial counterparts. Rather than insisting on European customs and ameliorating the prisoners' plight, in the last years of the war Congress responded to its constituents' demands for retribution by engaging in a cycle of retaliatory violence unimaginable at the war's outset.⁵

"Americans are humane as well as brave": Maritime Prisoners in American Custody, 1775-1777

When the thirteen disparate colonies organized for mutual defense in the aftermath of the bloodshed at Lexington and Concord, colonial Americans possessed a

⁵ This chapter is the first study of American treatment of British naval prisoners since Gerald Haffner's useful, but limited, 1952 unpublished dissertation chapter "Naval and Marine Prisoners of War." Haffner, "The Treatment of Prisoners of War," 406-435. For works that emphasize the revolutionaries' adherence to the European laws of war and the humane treatment of British prisoners broadly defined see Fischer, *Washington's Crossing* and Harold E. Selesky, "Colonial America," in Howard, Andreopoulos, Shulman, eds., *The Laws of War*, 59-85. Although more critical of the revolutionaries than Burrows, Paul Springer nonetheless concludes that "the United States lived up to Washington's decision to treat prisoners with decency and humanity, and at no time did the conditions used by the United States approach the horrors of captivity reported by prisoners of the British." Springer, *America's Captives*, 41.

normative set of expectations about the conduct of war derived from their understanding of European conventions and their experience in prior imperial conflicts. Although experienced in frontier warfare with Native American groups, most Americans were novices at European-style conflict that stressed the restriction of violence between “civilized” peoples to the locus of the battlefield. Civilians, noncombatants, and those incapable or unwilling to continue the fight were at least theoretically immune from hostility. The revolutionaries' senior military leaders, many of whom had previously served in European armies, insisted that their fledgling forces imitate European customs. Reinforcing this cultural inheritance was the practical concern that the revolutionaries initially hoped for reconciliation with the British crown and Parliament. Abusing the king's soldiers, sailors, and loyal subjects would do little to demonstrate the justice and legitimacy of their grievances. As one American officer told his men in December 1775, “We must show him [a British naval officer] & such as fall into our hands that Americans are humane as well as brave, you will therefore... treat the prisoners with all possible Tenderness.” The revolutionaries were thus both predisposed and incentivized to strictly adhere to the customs of war prevailing in Europe. If they were to be seen by the British and potential European allies as anything other than rebels and traitors, the revolutionaries would have to guard against any abuses against enemy prisoners in their custody. Such caution was especially important at sea where, individual commanders operated far removed from the chain of command and civilian oversight. As revolutionary leaders soon discovered, upholding this humane vision of naval warfare would prove harder than enunciating it.⁶

⁶ William Bartlett to George Washington. December 9th, 1775, Beverly, MA. *PGW*.

When war erupted, the revolutionaries had no shortage of sailors keen to take the conflict beyond the shores of the Atlantic—all but one of the twenty most populous towns in the colonies was a port—but because the colonies could not boast the infrastructure necessary to support the construction of massive warships, they had little hope of launching a fleet to match the might of the Royal navy. Undaunted, Congress and eleven of the thirteen colonies established naval forces to combat the perceived ministerial threat to American liberties within the first year of the war. These official maritime forces, however, never equaled, in terms of sheer numbers or effectiveness, the revolutionaries' privateer fleet.⁷

In outfitting privateers, the revolutionaries drew on a long and lucrative tradition of sending private ships of war to harass Britain's enemies during the imperial wars with France and Spain. For well over a century, the British crown, through the auspices of colonial royal governors, had issued letters of marque, or official commissions, to American ship-owners willing to risk it all for gold and glory. It is little wonder then that liberty-loving New England mariners, eyeing the wealth of the British West Indian trade, took up arms and went to sea en masse as privateers when the imperial crisis escalated to war. Both Congress and individual colonies approved of any menace to British trade that might persuade the ministry to rethink its belligerent stance. Owners of privateers, who outfitted, manned, provisioned, and armed their ships at no expense to Congress or the colonies, stood to gain a financial windfall if their captains were successful. The proceeds of the sale of any captured British vessel were divided between the owner, the captain, and the crew with the bulk of the wealth going to fill the coffers of the ship's

⁷ James M. Volo, *Blue Water Patriots: The American Revolution Afloat* (Westport, Ct: Praeger Publishers, 2007), 2, 6.

financial backer. The practice of privateering in New England was so popular that Washington despaired of losing eligible recruits for his army to these private ships of war. Historians estimate that by the war's conclusion over 2,000 ships bore American colors as privateers. Hardly the legalized pirates of popular lore, privateers were accepted participants in naval warfare, and they were expected to abide by the customary laws of war.⁸

Those Americans who remained loyal to the king were equally enthusiastic to try their fortune as privateers. For American merchants who remained faithful to their sovereign, outfitting a privateer to prey on their rebellious competition was a high-risk but high-reward venture. With regular trade curtailed by war, privateering presented to ship owners a lucrative alternative to recoup their investment. The British, however, feared that by licensing privateers to attack their own subjects, they would not only damage British trade, but also de facto recognize the colonies as an independent polity engaged in a legitimate conflict. Letters of marque were traditionally granted by a sovereign state to its own subjects to harass the shipping of another sovereign state in times of war: anything else was piracy. The European laws of war, as codified by Swiss jurist Emmerich de Vattel, were silent on the issue of privateering in wars of rebellion, but for a king to issue letters of marque against his own subjects was unheard of.

⁸ For the tradition of New England privateering during the imperial wars of the eighteenth century see, Carl E. Swanson, "American Privateering and Imperial Warfare, 1739-1748," *William and Mary Quarterly* (1985) 42 (3), 357-382. For privateering during the American Revolutionary War see Volo, *Blue Water Patriots*, chapter 2, Robert H. Patton, *Patriot Pirates: The Privateer War for Freedom and Fortune in the American Revolution* (New York: Pantheon, 2008), William M. Fowler, *Rebels Under Sail: The American Navy During the American Revolution* (New York: Charles Scribner's Sons, 1976), and Gardner Weld Allen, *A Naval History of the American Revolution* (Boston: Houghton Mifflin, 1913), 2 vols. Richard Pougher, the foremost expert on loyalist privateering has estimated that the revolutionaries outfitted over 2,000 privateering vessels during the war. Richard D. Pougher, "'Averse...to Remaining Idle Spectators:' The Emergence of Loyalist Privateering During the American Revolution, 1775-1778," (Ph.D. diss., University of Maine, 2002), 2 vols., 1:44. See also, Cohen, *Yankee Sailors*, 24-25 and John B. Hattendorf, "Maritime Conflict," in Howard, Andreopoulos, and Shulman, eds., *The Laws of War*, 98-115, 103-4.

Nonetheless, many ambitious loyalist mariners skirted the issue by waging an often successful, though limited, campaign without official sanction. More often than not, crown officers in North America turned a blind eye to these unofficial activities. The loyalist privateers' efforts remained attenuated, however, until France's entry into the war in early 1778 escalated the rebellion into an international conflict. Facing a much larger struggle than they had ever imaged, British naval authorities relented and began to encourage loyalist privateering. Notwithstanding the British ministry's official opposition to loyalist privateering in the first years of the war, Royal navy officials in occupied New York accepted, if begrudgingly, responsibility for captured American crews brought in by loyalist vessels. These men joined their comrades captured by Royal navy vessels in New York's cramped jails and hulks.⁹

The fate of British subjects taken by American vessels remained unclear however. Despite the well established practice of privateering, in prior conflicts, American crews had usually turned over enemy prisoners to British authorities. No longer able to rely on the British naval bureaucracy, many American privateers, eager to divest themselves of their prisoners and resume the hunt, released the men in neutral ports or landed them on British islands in the West Indies. For prisoners who made it back to America, their fate fell by default to the only thing passing for government in many of the colonies in the wake of the dissolution of official British rule: local councils and committees of safety. As South Carolina merchant Josiah Smith informed a friend in London in September 1775, "Our Assembly being dissolved, the Council to the King's Officers all under proscription for non-Associating with the People— we have now no other Government, than by a Council of Safety." These assorted bands of prominent whigs struggled to

⁹ Pougher, "Averse...to Remaining Idle Spectators," 1:10, 8-9.

maintain control over their often fiercely divided constituencies in the power vacuum that resulted from the departure of the king's officials. When the crew of a Massachusetts-commissioned privateer brought the Sloop *Sally* into the port of Plymouth in November 1775, members of the Massachusetts Council were at a loss for what to do with the prisoners. The Council opted to release the women and ordered that the men "be held in close confinement," most likely in Plymouth's jail.¹⁰

Jails in the port towns of New England rapidly became overcrowded, and the sustenance and support of British maritime prisoners soon strained the resources of America's coastal communities. Continental army commander General George Washington warned the President of Congress, John Hancock, that "many of the Towns where prisoners have been already sent, not having convenience for, or the means of keeping them, complain they are burthensome." Seeking to relieve this burden, General Philip Schuyler of New York suggested to Hancock that it was advisable "to remove all the Prisoners from Connecticut to some of the Interior Towns in Pennsylvania" where they could be more easily supplied. But even this solution was only temporarily viable because inland communities had little desire or motivation to pay, without the least prospect of remuneration, for the upkeep of prisoners taken by private adventurers.¹¹

The conditions of confinement for naval prisoners also varied tremendously during the first year of the war. In some communities, officers were allowed the freedom to rent rooms in town and to come and go as they pleased provided they gave their parole

¹⁰ Josiah Smith to Mr. James Poyas, September 21st, 1775, Charleston, SC. Josiah Smith Letter Book. Call Number 3018. Wilson Library. Southern Historical Collection. The University of North Carolina at Chapel Hill; Council of the Colony of Massachusetts Bay to the Sheriff of the County of Plymouth. November 13th, 1775. *NDAR*, 2:1008.

¹¹ George Washington to John Hancock May 11th, 1776, New York. *PGW*; General Philip Schuyler to John Hancock. November 27th, 1775, Ticonderoga, NY. *NDAR*, 2:1160.

of honor not to abscond to British lines, while in others officers were rigorously confined in jails alongside their men. Midshipman Richard Fisher of the Royal navy petitioned the Massachusetts Council for his release from “close jail, having only straw to lye on.” He felt his situation to be “realy [*sic*] very miserable.” The Massachusetts Council agreed and granted the young officer “the liberty of the Goal Yard on his giving his Parole in writing that he will not pass without the limits of the same.” Similarly, in December Washington requested that the Committee of Safety of North Hampton, Massachusetts grant midshipmen Bateman Baker and John Larkin the “indulgence” of the customary parole for officers while five “private sailors” captured with them were “to be confined.” Lacking large prison facilities or detention centers, the Americans housed most enlisted men in communal jail rooms where sanitary conditions often deteriorated precipitously. Thomas Slater of the British merchant vessel *Betsey* complained to the Pennsylvania Committee of Safety in July 1776 that the “the weather [was] so Warm and Cooking all in one room where there is nine persons Confin’d, which, for my part, I must Confess, without Inlargement [*sic*] I cannot say what will be the consequents [*sic*].”¹²

Other prisoners, like their counterparts in the British army, were permitted to seek employment at local farms or to earn their living as dockworkers or tradesmen. In late 1776, the Massachusetts Council even offered a group of Irish seamen the option of either returning home on the next European bound vessel or to be put “into families where they may maintain themselves by their labor thro’ the winter.” Allowing maritime

¹² Midshipman Richard Fisher to the Massachusetts Council. June 3rd, 1776. *NDAR*, 5:356-7. Washington's instructions were conveyed to the committee by Horatio Gates. Horatio Gates to the Chairman of the Committee of Safety at North Hampton. December 3rd, 1775. Copy of a letter sold by Early American History Auctions, Inc, January 3, 1999. Copy held by The Library of the Society of the Cincinnati. Vertical Files: "Prisoners of War."; Thomas Slater Master of the brig *Betsey* to the Pennsylvania Committee of Safety. Philadelphia. New Goal. July 2nd, 1776. *NDAR*, 5:878-9.

prisoners the option of working to supplement their provisions was a customary European practice. Captured French sailors during the Seven Years' War had created a cottage industry by producing trinkets and souvenirs for curious English civilians who visited their jails. With many of their young men away on military service, many American communities welcomed the prisoners for their commercial contributions, but others considered them an onerous burden. In the absence of congressional policy, confusion reigned.¹³

Concerned that the disparity in prisoner treatment occasioned by local management would reflect poorly on American arms, Washington pushed for a more consistent policy. In October 1775, he gauged the opinion of a delegation of representatives of the New England colonies and Congress on the issue of marine prisoners. Were these men "to be detain'd [*sic*] as prisoners or released? If the former, what distinctions are to be made in those taken by the Continental Vessells [*sic*], & the [privateers]?" All were in agreement that "Persons taken in Arms on Board any Prize be deemed prisoners at the Disposal of the General," but they were unwilling to go so far so as to say all prisoners taken at sea, regardless of whether or not they were captured by private vessels or congressionally-sanctioned ships, belonged to Congress. Subject to many different interpretations, these orders left plenty of room for local authorities to insist that they, not Congress, could dispose of maritime prisoners captured by their forces as they saw fit. At this early stage, the delegation's principal concern was not to adjudicate jurisdiction but to ensure that all captive sailors "be treated as prisoners of War

¹³ Orders of the Massachusetts Council. November 21st, 1776. *NDAR*, 7:208. For more information on the commercial practices of French marine prisoners during the Seven Years' War see: Clyde L. Lloyd, *The Arts and Crafts of Napoleonic and American Prisoners of War, 1756-1816* (New York: The Antique Collectors Club, 2007).

but with Humanity" and granted the same "allowance of Provisions to be the Rations of the [American] Army." Those seamen not taken in arms were free to go.¹⁴

These generous terms conformed to the revolutionary leadership's understanding of the customs governing war at sea between European nations as codified by European legal scholars and British naval regulations. The Continental Congress possessed copies of the "Admiralty laws of great Britain" [*sic*] and several other European countries, as well as myriad naval histories, and an impressive assortment of the writings of Grotius, Vattel, and Puffendorf. At the commencement of the war, the revolutionaries assumed that their British adversaries would adhere to a similar code of conduct, and they were anxious to prevent any potential infraction of the customs of war from reflecting poorly on the American cause. Washington was even adamant that prisoners be allowed to keep their private property, an order that proved unpopular with many privateersmen who desired to take full pecuniary advantage of their prisoners' vulnerability. William Bartlett, Washington's agent for naval affairs, advised the general that his order "shall be Punctually Obey'd" in the future but its enforcement had been previously "impracticable" due to Congress's lack of authority over private ships.¹⁵

To ward against any future violations, Congress added teeth to Washington's directives by promising punishment for any Continental navy captains or masters of private vessels who mistreated their prisoners. The April 1776 resolve warned: "If you, or any of your officers or crew, shall, in cold blood, kill or main, or by torture or

¹⁴ "Minutes of a Conference of the Delegates of the Honorable Continental Congress, the Deputy Governours of Connecticut & Rhode Island, the Committee of Council of Massachusetts Bay with General Washington begun at Head Quarters Cambridge October 18th 1775 & continued to the 22d of the same Month." *PGW*.

¹⁵ *PCC*, Item 183, 2:31, 37; William Bartlett to George Washington. Beverly, MA. December 20th, 1775. *NDAR*, 3:181.

otherwise, cruelly, inhumanly, and, contrary to common usage, and the practice of civilized nations in war, treat any person or persons surprised in the ship or vessel you shall take, the offender shall be severely punished.” Congress demanded that any armed ship under its jurisdiction strictly observe these customary practices. Members of Congress saw themselves as the legitimate representatives of a just cause, and they were determined to operate within a culture of naval warfare that licensed certain types of violence, such as the capture of an enemy’s merchant vessels, but prohibited the murder or mistreatment of enemy prisoners. Within the same set of instructions, Congress officially affirmed its jurisdiction over prisoner-of-war policy but simultaneously admitted that the prisoners' administration would often fall to the "general assembly, convention, or council, or committee of safety" of individual colonies.¹⁶

Unfortunately for enemy prisoners, Congress lacked the resources and authority to either enforce this resolve or provide for the prisoners itself. Even those prisoners captured by congressionally sanctioned privateers or the Continental navy were often turned over to local authorities better positioned to feed and house the men. When James Forrest, a British passenger traveling to Halifax from Antigua, was captured by a Continental navy vessel commanded by Captain Isaiah Robinson in the summer of 1776, he was "treated with the greatest humanity" by his captors. In a letter to the President of Congress, John Hancock, Forrest proclaimed that Robinson's "humanity to us while we were his Prisoners, was equal to his bravery." Yet once the men arrived in Philadelphia, they were "carried immediately from the Vessel to Prison" and deprived of their clothing and personal effects, contrary to Robinson's promises. Despite strict congressional mandates on the treatment of enemy maritime prisoners, local officials in Philadelphia

¹⁶ *JCC*, 4:254.

had few qualms about breaking the terms of the surrender agreement by jailing the men without parole. Because Forrest was in the custody of Pennsylvania authorities, Hancock could do nothing for him.¹⁷

Congress and the individual colonial governments agreed, however, that the ultimate purpose of holding British maritime prisoners was the prospect of exchanging them for Americans in British custody. In prior European conflicts, the belligerent powers quickly established formal arrangements, known as cartels, for the exchange of prisoners. Neither side in the conflict could afford to support continually increasing numbers of captured enemy combatants for long, and both parties were desirous of returning their soldiers and sailors to their regiments and ships. Customarily, men of equal rank were exchanged for one another. In the opinion of the British ministry, however, the American rebellion was not a European war and the American Congress was not a legitimate political entity capable of entering into any formal cartel. Making such an agreement with rebels would implicitly acknowledge the independence of the colonies. If exchanges were to occur, they would have to be off the record.¹⁸

As well as infuriating the revolutionaries, the British ministry's decision to deny Americans the benefits of an official cartel had the initial effect of depriving a number of their own officers of their liberty. Washington, who took every British discourtesy as a personal insult, was of the firm opinion that "England ought to be obliged to acknowledge us an independent State, at least as far as respects Prisoners of War." When it became clear that that was not to be the case, the American general refused prisoners'

¹⁷ James Forrest to John Hancock. September 13th, 1776. Philadelphia Prison. Elias Boudinot Papers. MMC 721. Library of Congress. There is no record of any response to Forrest's petition in the Papers of the Continental Congress.

¹⁸ George Germain to Sir William Howe. Whitehall. February 1st, 1776. *NDAR*, 4:881.

requests for exchange. General Horatio Gates explained to captive Royal navy Lieutenant Edwin Stanhope in January 1776 that any release from his confinement was impossible because “the Admiral [Lord Howe] Has already declined every negotiation for Exchange of prisoners.” Yet Gates was not being strictly truthful. Even though he did not have the authority, or inclination, to settle a formal treaty, Admiral Howe would have been happy to informally exchange Lieutenant Stanhope, whose uncle was a peer of the realm, for an American officer of equal rank. Howe could negotiate with Gates only on the basis of their own honor as gentlemen however. Such an agreement would have to remain ad hoc and precedent could not be admitted. Predictably, Gates refused, and Stanhope remained a prisoner. He was not the last British sailor to have his dreams of exchange thwarted. Despite numerous attempts at compromise, the dissonance resulting from Britain’s official stance that the colonies were in rebellion, and Congress’s unwillingness to treat without a British acknowledgment of its legitimacy, prevented any holistic prisoner exchange throughout the war.¹⁹

Although an official exchange agreement could not be achieved, neither Congress nor the British high command was willing to give up on the prospect of recovering their captured countrymen. Just weeks after declaring independence from Great Britain, Congress granted Washington the authority to conduct unofficial exchanges of prisoners “in the land or sea service” on an equitable basis: “soldier for soldier, sailor for sailor, and one citizen for another citizen.” In order to conduct these exchanges, Congress acceded to Washington’s request that a commissary department be established to handle prisoner

¹⁹ George Washington to John Hancock May 11th, 1776, New York. *PGW*. Never exchanged, Stanhope escaped American custody in November 1776. Gates was acting under Washington’s orders. Brigadier Genl. Horatio Gates to Lieutenant Henry Edwin Stanhope. Cambridge, MA. January 24th, 1776. *NDAR*, 3:951. See also, Stanhope to Washington. Northampton, MA. January 16th, 1776. *PGW*, n.3; Knight, “Prisoner Exchange and Parole,” 201-222.

affairs. Washington cited the customary practice of European nations in previous wars. In his opinion, “Such establishments are agreeable to the practice & usage of the English and other Nations, & are founded on principles of necessity & public utility.” Washington reiterated the prevailing American opinion that they must conduct this war within the culturally accepted norms of European warfare. Drawing on British precedent, Congress appointed a Commissary General of Prisoners to oversee prisoner administration. Despite increased congressional control, individual states maintained they had a right to conduct exchanges of their own. Deeply wary of concentrated executive authority and unwilling to trample on the prerogatives of individual states, Congress agreed, resolving “that each state hath a right to make any exchange they think proper for prisoners taken from them or by them.” For the remainder of the war, both Congress, through the auspices of its commissary of prisoners, and the executive leadership of the states conducted separate prisoner exchanges with the British, resulting in continual confusion and resentment between the states.²⁰

During the first two years of the war, however, Congress, Washington, and the state governments all agreed that British sailors captured by American forces merited the highest standard of treatment according to the conventions of European warfare. Occasionally, the decentralized nature of the revolutionary government and the financial limitations of an inchoate nation resulted in hardships for British maritime prisoners, but Robert Harrison expressed the opinion of Washington and Congress when he instructed the Springfield, Massachusetts Committee of Safety in February 1776 that “the prisoners in our hands should be treated with humanity & kindness and have every thing really

²⁰ *JCC*, 5:599; Washington to Hancock May 11th, 1776. *PGW*; *JCC*, 5:599; Boudinot to Ezekiel Williams. Valley Forge, PA. December 30th, 1777. Boyle, “*Their Distress is almost intolerable*,” 69-70.

necessary for their support.” British prisoners released from American custody corroborated the revolutionaries' position on prisoner treatment. Merchant sailing master William Jenkins, who had been captured by the Continental navy and allowed to return home to England after a brief confinement in Massachusetts, hoped that “the Humanity with which he has been treated may be an Inducement to the like Treatment of others in similar Circumstances on the other Side.” Most revolutionary Americans agreed with Jenkins and assumed that as long as they conducted themselves within the culturally proscribed limits of European warfare, their enemies would eventually acknowledge them as legitimate combatants engaged in a just cause. With this in mind, the Navy Board of South Carolina issued standing orders to all of its captains that prisoners must be treated with “the greatest humanity and tenderness, and upon no consideration suffer the honour of the American arms to be stained by any act of cruelty or inhumanity.” Contending not simply for victory, but also to demonstrate the legitimacy of their claim to independency to the "civilized" world, revolutionary Americans insisted upon the restrained conduct of both her navy and privateers. In their idealized vision of war, captivity in America would be short, comfortable, commensurate with rank and station, and above all, benign.²¹

"To Revenge the innocent Blood of your murdered Children": Retaliation, Escalation, and the Ordeal of British Maritime Prisoners, 1777-1783

In the fall of 1777, the American position on British maritime prisoners began to harden. With graphic, and often exaggerated, accounts of British mistreatment of

²¹ Robert Hanson Harrison to Committee of Springfield, Massachusetts. Cambridge. February 9th, 1776. *NDAR*, 3:1182; Petition of William Jenkins to the Massachusetts Council. September 20th, 1776. *Ibid.*, 6:786-7; The Navy Board of South Carolina to Captain Timothy Pickering. Charles Town, SC. November 2nd, 1776. Force, *American Archives*, 5th series, 3:1532.

American sailors flooding the revolutionary press, an explosion of loyalist privateering, and Parliament's enactment of the American High Treason Bill, revolutionary Americans began to rethink their humane stance on the treatment of prisoners of war. In the quest for retribution for British misconduct, the distinction between proportional retaliation and unbridled vengeance began to erode. Americans did not abandon their commitment to the Enlightenment's culture of restrained warfare overnight, however, and many senior revolutionary leaders such as George Washington continued to insist that their actions conform to the customary practice of war in Europe. Nonetheless as the conflict dragged on, most came to re-imagine their British foes as uncivilized and therefore undeserving of the customary protections of European warfare. Convinced that the British had violated the norms of civilized war, the revolutionaries increasingly characterized captured British mariners as piratical mercenaries and bloodthirsty barbarians deserving little mercy. Viewed as rebels and traitors to their country by the revolutionaries, those American loyalists in arms against the glorious cause were considered by many to have no rights at all; they might be impressed, jailed, and even executed at their captors' whim. This alteration in how the revolutionaries conceived of their enemies had drastic consequences for the treatment of enemy prisoners in American hands.

The roots of this shift in American perception can be traced to the revolutionaries' rapid mobilization of the press to exploit both real and imagined British atrocities for propagandistic purposes. Hoping to motivate their own forces, as well as to persuade the unconvinced of the justice of the American cause, revolutionary printers from Savannah to Boston published accounts of British misconduct. In January 1777, the *Massachusetts Spy* reported that American sailors in British custody in New York were

"very sickly and died fast." The author placed the blame for the men's distress squarely on the British, who were guilty of "cruel and barbarous treatment." Later that month, The *Connecticut Journal* informed its readers about the treatment of "a Gentleman of Honor and Distinction, a Prisoner in New-York." The article described in vivid detail "the distress of the prisoners" and observed that "twenty or thirty die every day, they lie in heaps unburied." In the opinion of the author, "nothing can stop such treatment but retaliation...It is due to the manes of our murdered countrymen." According to the British commissary of naval prisoners, David Sproat, the allegations were utterly false. Radical firebrands painted a picture of British inhumanity in order "to deceive the world into a belief of the necessity of using our people [British prisoners], ill." He feared such fictions would "inflame the minds" of the people and encourage the mistreatment of British prisoners. Sproat was right; by the second half of 1777, revolutionary Americans clamored for revenge.²²

Unable to ignore the flood of sorrowful petitions from captured American sailors, and facing increasing pressure from constituents to seek retribution, Congress made the momentous decision to exact retaliation. In June 1777, General Washington, on Congress's orders, informed the British high command that "Congress most sincerely laments the necessity to which they are driven by the cruel policy of their enemies, of entering into any resolutions which have any appearance of severity towards those prisoners of war who have fallen or may fall into our hands," however it was "their determined resolution to carry into execution the law of retaliation." Officially sanctioned by Enlightenment jurists such as Vattel, proportional retaliation had deep

²² *Massachusetts Spy*, January 9th, 1777; *Connecticut Journal*, January 17th, 1777; *New-York Gazette*, February 12th, 1781.

cultural valence in early modern European warfare. Intended to ensure that both parties in a conflict observed the laws and customs of war, the law of retaliation rarely had to be enforced; the mere threat of retaliation was often enough to persuade the offending party to desist. The revolutionary leadership believed that the British were unlikely to persist in their mistreatment of American prisoners if their own countrymen might endure a similar fate. Regrettably for prisoners on both sides, the British ministry had no intention of treating the Americans as anything other than rebels and pirates.²³

Having chosen the path of retaliation, Congress's first course of action was to order maritime prisoners in American custody into close confinement. Aware that the crown made no distinction between American sailors captured aboard commissioned Continental navy vessels and those who served on privateers or state vessels, Congress declared in October 1777 that all British subjects captured by Continental vessels, regardless of their belligerent status, were to be deemed congressional prisoners and "confined in the gaols" of the state to which they were brought. Realizing that state forces and privateers were responsible for the majority of maritime captures, Congress "recommended to the several states to consider and treat" all British maritime prisoners in like manner. For those British officers enjoying the freedom of their paroles, and those common seamen at liberty to labor for wages, the order to report to jail must have come as a shock. Unlike captured American sailors who had never known anything but close confinement, these British mariners had expected, and largely received, the customary treatment due to their rank and station. By incarcerating these men, many of whom had surrendered on the promise of parole and generous treatment, Congress usurped the power of its naval officers to conduct capitulations based on their word of honor and

²³ Resolve of Congress. June 10th, 1777. *JCC*, 8:449-450; Lee, *Crowds and Soldiers*, 194-96.

reneged on its own resolutions to treat captive enemy prisoners with humanity: a clear violation of the norms of maritime warfare in Europe.²⁴

Congress's sweeping departure from its earlier position did not have the desired effect however. American maritime prisoners continued to endure close captivity on both sides of the Atlantic. When informed of the congressional resolution, Lord George Germain countered by issuing a directive to the Royal Governor of New York stipulating that "when any prisoners, taken in any rebel privateer, or armed cruizer, shall be brought into any of the ports within your government, you do commit them to the common gaol." Despite growing domestic pressure in favor of the American prisoners, the British ministry would neither recognize Congress for the purposes of negotiating a formal cartel of exchange nor amend the High Treason Act to allow the Americans the protections of prisoner-of-war status. If that meant British seamen would see the inside of an American jail cell, so be it. By invoking the law of retaliation, Congress had hoped to ameliorate the plight of American prisoners, but by Christmas 1777, the miserable conditions of the New York prison hulks showed no sign of improvement.²⁵

For many senior revolutionaries, including Continental Commissary General of Prisoners Elias Boudinot, the answer was simple: retaliation had not gone far enough. Cognizant that the scarcity and the poor quality of provisions was a primary cause of complaint among the New York prisoners, Boudinot ordered captured British sailor's rations reduced to match the stated two-thirds allotment received by Americans in British

²⁴ *JCC*, 9:776-7.

²⁵ Interestingly, Germain ordered that "the crews of any trading vessels belonging to the rebels...must be left at liberty." The revolutionaries were no longer willing to differentiate between merchant and armed vessels. Germain did stipulate that American merchant mariners were eligible for impressment however. Lord George Germain to the Governor of New York. Whitehall. January 10th, 1778. *The Parliamentary Register*, 11:201-2.

captivity. He informed his deputy, Robert Hooper, "not to suffer the Prisoners to receive more than 12 oz of Beef & as much Bread pr Man pr day that being the Quantity the Enemy pretend our Prisoners receive." From the outset of the conflict, British military officials maintained that American prisoners required only a two-thirds portion of the provisions supplied to active duty British soldiers and sailors; the theory being that their sedentary confinement necessitated the consumption of fewer rations. Published prisoners' accounts circulating in the American press claimed that the men rarely, if ever, received even that much. In a missive to Connecticut's commissary of prisoners, Ezekiel Williams, Boudinot made his motive abundantly clear. "The cruel, savage, Treatment our Prisoners meet with, calls aloud for this just act of severity." In Boudinot's mind, the British had abandoned accepted standards of the practice of war among "civilized" people in favor of "savagery" little better than the conduct of their Native American allies. Nonetheless, he refused to abandon the principle of proportional retaliation. As he informed assistant commissary Joshua Mersereau, "we must treat they [*sic*] as they treat us." Congress confirmed Boudinot's actions on January 21st, 1778. Henceforth, British prisoners would be "subsisted and treated in such manner, as shall render their situation similar in all respects to that of the officers and privates who are prisoners with the enemy."²⁶

Unfortunately for British maritime prisoners in American custody, Congress lacked the authority and influence to guarantee that retaliation remained proportional. Once Congress opened the door to retaliation, local communities housing enemy

²⁶ Boudinot to Robert Hooper. White Marsh, December 4th, 1777. Boyle, *"Their Distress is almost intolerable,"* 55; Boudinot to Ezekiel Williams. White Marsh. December 1st, 1777. *Ibid.*, 53; Boudinot to Joshua Mersereau. Valley Forge. December 30th, 1777. *Ibid.*, 68; JCC, 10:80-81. Congress would reiterate this stance in July, 1778. *Ibid.*, 11:723.

prisoners often escalated the severity of their response beyond any semblance of proportionality. After all, it was their husbands, children, and neighbors starving aboard British prison hulks and suffering in British jails. A columnist for an English paper believed that the abuse was widespread. He claimed to have "yet to hear of a man returned from among them [the Americans], who speaks favourably [*sic*] of them. It is well known, that boys and mobs are set on to insult and abuse every English prisoner." Crowd action was not a novel phenomenon in revolutionary America. Groups of concerned citizens had long gathered, often armed with clubs and cudgels, to regulate the morality of their communities, to protest perceived political and economic grievances, and to demand extra-legal justice. It is little wonder that that when confronted with British violations of the norms of naval warfare as they understood them, revolutionary crowds came to see the British sailors confined in their communities as suitable surrogates for retaliatory punishment. In December 1777, paroled British naval officers William Otway and William Brooks became the victims of such a crowd when the people of Killingly, Connecticut, vented their anger on these unarmed prisoners. A state official informed Connecticut's governor, Jonathan Trumbull, that the men were "much abused" by the Inhabitants. In their official remonstrance, the prisoners claimed that they were "in no measure treated with that Respect and Kindness etc. which is due to Prisoners in the hands of their Enemys [*sic*]," instead they experienced "brutish treatment" from their captors who seemed "determined to oppress and injure" them. Their complaints garnered little sympathy from Connecticut revolutionaries. Outraged at Britain's conduct of the war, ordinary Americans were not afraid to express their rage.²⁷

²⁷ *New-York Gazette*, April 13th, 1778; Lee, *Crowds and Soldiers*, chapter 1. See also, William Pencak, Simon Newman, and Mathew Dennis, eds., *Riot and Revelry in Early America* (University Park,

Revolutionary fury soared when, in the aftermath of France's entry into the war, British military and naval authorities openly encouraged loyal Americans to take to the sea to plunder and harass their rebellious neighbors. Unfettered by naval regulations, loyalists waged a destructive campaign largely devoid of the civilities of European naval warfare. Forced from their homes, persecuted by revolutionary committees, and stymied by British authorities for years, loyalist privateers had every motive for vengeance. To the revolutionaries, who by now had ample evidence of British cruelty, these "tory pirates" were further proof of the British ministry's abandonment of "civilized" warfare. In the eyes of their enemies, by becoming "Pirates, Robbers & Murderers," the loyalists transformed themselves into "Barbarians." One enraged whig, writing under the pseudonym "An Enemy to Tories," wondered rhetorically, "Can any Infliction of Punishment (though ever so severe) be called too Cruel" for loyalists? In his estimation, those Americans still loyal to the king were "Vermine" [*sic*] who deserved "the Halter." A Connecticut revolutionary was even more adamant in his denunciation of loyalist privateers. Upon hearing that a loyalist captain sailing from Halifax had impressed several Americans and forced them to fight and die for the crown, he enjoined his countrymen to "let your JUSTICE whet her Sword to Revenge the innocent Blood of your murdered Children." No wonder that from the perspective of many state governments, now deeply mired in their own civil wars, loyalist privateers looked more like criminals and traitors than legitimate enemy combatants.²⁸

PA: The Pennsylvania State University Press, 2002); Joseph Spencer to Governor Jonathan Trumbull. Providence, RI. December 5th, 1777. Trumbull Papers. Volume 7, No. 217a. CSL; Lieutenant William Otway to Governor Jonathan Trumbull. Killingly, CT. July 7th, 1777. *Ibid.*, Volume 7, No. 222a. CSL.

²⁸ For accounts of alleged cruelties committed by loyalist privateers see for instance: *Connecticut Journal*, March 5th, 1777, *Pennsylvania Packet*, July 23rd, 1778, and *Massachusetts Spy*, September 23rd, 1779; A columnist writing under the pseudonym "Charitas" compared loyalists who had turned "Pirates, Robbers & Murderers" to "Barbarians." *Freeman's Journal*, April 12th, 1777; *Freeman's Journal*, January

Although there was no national law defining treason or its punishments during the war, soon after independence each new state passed acts criminalizing loyalty to King George. Punishments varied widely from fines and banishment to imprisonment and execution. In the case of captured loyalist privateers, however, the revolutionaries' response was fairly uniform. If granted quarter in the first place, which was by no means *a fait accompli*, loyalist sailors would usually be turned over to local civil authorities rather than military commissaries. Congress confirmed this policy in December 1777 by ordering that all "inhabitants of any of these United States, who...join the enemy" should be handed over to their respective states to be "confined in close gaols" and "dealt with agreeable to the laws thereof."²⁹

Because Congress relinquished the authority to administer captured loyalists, loyalist sailors were often at the mercy of local officials bearing private grudges, dolling out vigilante justice at will. The experience of Jonathan Hayes, the loyalist prize master of the privateer ship *Jack in the Lanthorn*, was typical. Captured in 1781, Maryland officials deprived him of his supplementary apparel and threw him into "the most Dismal Goal in America" where he subsisted on "5 ounces of pork" and "8 oz flower [*sic*]" per day: a quantity far below the two-thirds share the Continental commissaries allotted to prisoners of war for the purpose of retaliation. Some days he received nothing at all. His circumstances improved little when he was transferred to Fort Frederick. Marching

14th, 1777. Although they never matched their rebel opponents in terms of sheer numbers or captures, loyalist privateers plagued the revolutionaries' maritime trade for the remainder of the war. Pougher, "'Averse...to Remaining Idle," 637-9. For a recent history of impressment in the Atlantic world see Denver Brunsmen, *The Evil Necessity: British Naval Impressment in the Eighteenth-Century Atlantic World* (Charlottesville: University of Virginia Press, 2013).

²⁹ For instance, in November 1777, the Rhode Island Council of War turned over Thomas Smith, a Stamford, Connecticut born mariner captured aboard a British warship, to the Governor of Connecticut "to be proceeded with agreeable to the Laws thereof." Theodore Foster to Governor Trumbull. Providence. November 15th, 1777. Vol 7, No. 190a. Trumbull Papers. CSL; JCC, 9:1069.

upwards of thirty-five miles a day—often in the driving rain—he and his crewmembers were "lock'd up in a small Dark Room not half big Enough for us [to] lay...on the stone" at night. Once arrived at the fort, which he described as "the Most Dismal place that Ever Eyes beheld full of Durt [*sic*] vermin & Every[thing] Disagreeable to Humain [*sic*] Bein [*sic*]," his rations were reduced once more. Now denied any protein or vegetables, the loyalist sailors were forced to pick herbs "to Eat with the flower [*sic*]" in order to survive. Although Hayes requested to be treated as an officer and a gentleman, he remained imprisoned "with out [*sic*] Distinction amongst Common prisoners and Neagros [*sic*]," bereft of adequate nutrition, and "Espos'd [*sic*] to all sorts of weather." Because Hayes was American born, and thus a traitor to his country according to the revolutionaries, he was forced to endure "Nuisances too much for the human shell to bear" for the remainder of the war.³⁰

Some loyalist sailors had more to fear than prolonged confinement in pestilential prisons. Once in state custody, these men could face trial for treason or piracy. When an American privateer commanded by James Montgomery captured the loyalist brig *Impertinent* in 1779, Montgomery turned over the vessel's captain, Jacob Getcheus, along with several of her crew, to civil authorities in Philadelphia. Having accepted Getcheus' surrender and treated him as officer and prisoner of war, Montgomery hoped that state officials would liberate the man on parole. The Philadelphia Council of Safety had other ideas. The officers and principal crewmen of the *Impertinent* would face trial by the civilian court of Oyer and Terminer for waging "War & Rebellion" against the state as "Traitors & Rebels." Although the Chief Justice of Pennsylvania, Thomas McKean,

³⁰ Diary of Jonathan Hayes. 1781. Box 27. Folder 1. Thomas Bradford Papers, Series 3. Bradford Family Collection, 1676. HSP.

considered the issue of loyalist privateers an "unprecedented and doubtful case" and argued that "all late inhabitants of this state taken in open war" should be considered "prisoners of war," he also believed that "traitors, pirates, &c., offending upon the Sea" should be "tried for the same in any court of Oyer & Terminer." Possessed of a British letter of marque, Getcheus believed he could "be Considered in no other light but as prisoner of war" and thus he deserved to be exchanged according to "the Custom of Nations." Unsure of how to proceed, the Council remanded him to confinement for the simple reason that he had once been an "Inhabitant of this State." Getcheus, as well as his pilot Samuel Saunders, and crewmen Jason Thompson, Zachariah Hutchins, Charles McClain, and John McDonald, were confined for nearly a year before they were finally paroled to New York.³¹

Others were not so fortunate. Upon his capture in the winter of 1781, Levin Disharoon was stripped of all his belongings and "committed to Goal" while the Maryland General Court considered his case. Despite the fact that he had earlier been paroled by a congressional commissary, Maryland officials found him guilty of serving aboard the loyalist schooner the *Cat*, commanded by John Dempsey of New York. In the court's opinion, Disharoon was a "Traitor and Rebel against the State of Maryland." For his crimes against the state, Disharoon was sentenced to suffer the customary English punishment for traitors: he was "hanged by the Neck" until barely alive, his intestines

³¹ James Montgomery to Joseph Reed. New Castle, DE. June 9th, 1779. *Pennsylvania Archives*, Series 1, 7:476. Court orders for the trial of suspected loyalists in Pennsylvania were standardized by this time. See for instance: Orders for the Court of Oyer & Terminer held at Philadelphia. *Ibid.*, Colonial Records, Minutes of the Supreme Executive Council, 1775-1779, 11:604; Tho. McKean to Joseph Reed. August 13th, 1779. Philadelphia, PA. *Ibid.*, Series 1, 7:645-6; Petition of Jacob Getcheus to the Council of Safety of Pennsylvania. New Gaol, Philadelphia. October 20th, 1779. Pennsylvania State Government Papers. Reel 36. No. 716. David Library of the American Revolution; *Pennsylvania Archives*, Colonial Records, 12:147; Thomas Bradford. *Ibid.*, Colonial Records, 12:112. Saunders was paroled on May 9th, 1780. Parole of Samuel Saunders. Thomas Bradford Papers. Naval Prisoners. HSP.

were "taken out and burnt before his face," and mercifully "his head cut off and his body divided into four Quarters." Because he was an American who refused to embrace the blessings of liberty, Disharoon represented an existential threat to the revolutionary cause by openly espousing an alternate vision for America's future. In the eyes of the revolutionaries after independence, those Americans in arms for the king merited the fate of traitors, rebels, and pirates, not prisoners of war entitled to the protections of the laws of nations and humanity.³²

After Congress's October 1777 order to confine all naval prisoners, it was not only loyalists who faced rigorous imprisonment in American custody. When word of the resolution reached the maritime communities of New England, state governments seized the opportunity to exact vengeance for the myriad wrongs committed against their sailors by the British. The Connecticut General Assembly wasted no time in empowering Commissary Williams to ready a prison ship to house maritime prisoners. The governor of Connecticut, Jonathan Trumbull, had heard in early November that British occupying forces in Newport had confined "a great number of the Inhabitants of Newport...on board prison ships." His informant, Thomas Shaw, believed that the revolutionaries were "obliged by the sufferings of our unfortunate friends, on board their Prison ships" to "confine our prisoners in like manner." If American seamen, soldiers, and civilians were to languish on board prison ships, so too would the subjects of the crown. On Trumbull's orders, Commissary Williams began converting an antiquated Dutch merchant ship for

³² Levin Disharoon to Thomas Bradford. Lewistown, MD. February 19th, 1781. Box 13, Folder 38. Naval Prisoners. Thomas Bradford Papers. HSP; Warrant of Execution Issued for Levin Disharoon. October 25th, 1781. Worcester County, MD. Maryland State Papers. (Series A) 1781 MSA S 1004-40-12298 MdHR 6636-31-105/3, Location: 1/7/3/45. Maryland State Archives.

the purpose. Williams was confident that the ship could "be fitted out for the reception of 5 or 600" prisoners "without a very great Expence [*sic*]." ³³

While government officials in Connecticut prepared their floating prison, Massachusetts authorities in Boston ordered British seamen onto prison ships every bit as crowded, fetid, and foul as those the British employed in New York. Long before the congressional orders for retaliation, Massachusetts revolutionaries had used prison hulks to house suspected loyalists. As early as April 1777, the Massachusetts Council, without congressional approval, had authorized the state Commissary of Prisoners Robert Pierpont to prepare the brigantine *Rising Empire* for the reception of "such Prisoners as may be put on board the said Vessel [and] kept secured." The initial occupants were primarily suspected loyalists, but it was not long before Massachusetts authorities began to pack British sailors, soldiers, and Brunswick auxiliaries into the *Rising Empire* as well. The ship was soon filled to capacity, forcing local officials to commission two more floating prisons. By October 1777, the prison ships in Boston harbor were so congested that Commissary Robert Pierpont feared insurrection. He cautioned the Council: "If their [*sic*] is not A large number of Men to guard the Prison Ships in this Harbor that some Mischief may soon Arise." Pierpont's warning proved effectual. Continental army General William Heath sent the commissary thirty-six more guards who were "firmly attached to the American cause." Despite the added security, prisoners on board the

³³ On October 11th, only five days after the congressional resolution ordering the close confinement of British prisoners, the Connecticut General Assembly ordered that "a Prison Ship be provided for the reception of the prisoners of war in this State." Resolve of the General Assembly of Connecticut. October 11th, 1777. Hoadly, ed., *The Public Records of the State of Connecticut*, 1:418. On January 8th, 1778, the Assembly ordered all British prisoners, regardless of rank or station, to be confined either in prison or on board the prison ship. Resolve of the General Assembly of the State of Connecticut. January 8th, 1778. Harford, CT. Trumbull Papers. Volume 8, Number 39a. CSL; Thomas Shaw to Governor Trumbull. November 8th, 1777. Norwich, CT. *Ibid.*. Volume 8, number 169a; Ezekiel Williams to Elias Boudinot. Undated, [1778]. Elias Boudinot Papers. HSP.

Kingston attempted to seize the ship and very nearly made their escape. The Council responded by ordering Pierpont to instruct his guards “on board said ship to fire upon the said Prisoners” if they continued to “behave in a very turbulent insolent manner.”³⁴

More guards and more threats, however, did not solve the root problem; the prison ships were overcrowded, disease-infested, and poorly supplied. Predictably, the conditions on board American prison ships deteriorated quickly, as did the health of the prisoners. According to a group of Canadian prisoners, the captured sailors were in “a truly deplorable Situation...quite naked...devoured by Vermin... [and] without the Means of cleaning themselves from filth.” Their distress was compounded by the early advent of the Boston winter. They huddled together in the ship’s hold “almost frozen without the power of warming themselves.” The prisoners, who claimed to be “ready to perish with hunger,” begged only to “be removed from the Ship, And to be put into some place where they may have a fire.” The masters of the prison ships, however, were under strict orders “not to permit any Persons to visit the Prisoners, neither are you to suffer them to go on Shore, or to write to or receive Messages or Letters from any Persons whatever.” Depriving prisoners of the ability to communicate with friends and relatives was unusual in eighteenth-century warfare, but Massachusetts’ revolutionary leadership wanted British prisoners to be just as isolated as the American sailors in New York harbor. The Council responded by sending them firewood and candles, but denying their request for confinement on land. Not even the onset of warm weather could alleviate the prisoners' sufferings. The Massachusetts Board of War was informed in August 1778

³⁴ Journal of the Massachusetts Council. Boston, April 23rd, 1777. *NDAR*, 8:406; Massachusetts Commissary of Prisoners Robert Pierpont to the Massachusetts Council. Boston. October 8th, 1777. *Ibid.*, 10: 67; Orders for Robert Pierpont Esqr. Commissary of Prisoners. October 9th, 1777. *Ibid.*, 10:67; Massachusetts Council to the Massachusetts Commissary of Prisoners. Council Chamber, Boston. October 25th, 1777. *Ibid.*, 10:280.

that the prisoners on board the *Adams* were “subject to great inconvenience, & distress by being so closely & early shut down under Deck.” Rather than allowing them to come ashore, the Board of War instructed Captain Doble “to leave the Hatches open when the Heat of the Weather may make it necessary.” Immersed in squalor, the hundreds of seamen confined aboard likely found the board's gesture little comfort.³⁵

Even British officers, no longer protected by their paroles of honor, were crammed below deck with no distinction paid to their exalted social and naval status. Midshipman Daniel Dobrée of the HMS *Bristol* confided to his brother his experiences aboard a prison ship in Boston. “I shall not repeat all the cruel treatment I have met with from them: suffice it to say they brought us to this place [Boston], where we are confined on board a guardship [*sic*] with 250 more poor wretches, sailors, soldiers, and Hessians, without being suffered to have any communication with the shore.” Prior to being confined, Dobrée was robbed of all his possessions except a threadbare suit of clothes. Even for an experienced mariner like Dobrée, enduring a Boston winter without the benefit of a fire or warm clothing must have been arduous. Dobrée was not alone however. By 1778, British naval officers could no longer count on receiving the relative freedom and hospitality enjoyed by captive officers on parole in Massachusetts in 1775 and 1776.³⁶

Merchant marine officers were little better off. Despite British orders to release all American merchant mariners, the officers of British commercial vessels were

³⁵ Canadian prisoners on board a prison ship in Boston harbor to the Massachusetts Council. October 30th, 1777. *NDAR*, 10:356; Massachusetts Board of War to Captain Joseph Doble. War Office, Boston. July 10th, 1777. *Ibid.*, 9:253-4.

³⁶ Daniel Dobrée to the Earl of Sandwich. Portsmouth, January 16th, 1778. G.R. Barnes and J.H. Owen, eds., *The Private Papers of John Earl of Sandwich First Lord of the Admiralty 1771-1782* (London: 1932), 4 vols., 1:316.

consigned to the prison ships. Henry Shirley, a merchant ship's officer who had been paroled by Governor Trumbull, was seized in early September 1778 and "confined in a small cabbin [*sic*], about 10 feet square, nearly filled with trunks & other Baggage, (& where 30 people are obliged to sleep)." He and his comrades were denied "meat, drink, Bedding or Cloathing." Joseph Henderson, an assistant commissary of prisoners for Massachusetts, admitted that the room was "so crowded that its impossible for them to Lay down." Shirley could not understand why the Council would want "to treat, so severely, Gentlemen who have not broken their Parole." For the Massachusetts' Council, these sailors' imprisonment was symbolic. The Council was under great pressure from constituents to exact revenge upon British seamen for the hardships American sailors endured on board British prison ships. The American Commissioners to the Court of France summarized the popular American opinion in December 1777: "They [The Americans] have wished that this war, into which they entered with reluctance, might be distinguished by the humanity with which it was conducted," but the British treatment of American prisoners required them "to make ample retaliation upon the numerous prisoners of all ranks in their possession." The American commissioners felt justified in their conduct because Britain had abandoned "every rule of war among civilized nations."³⁷

Unlike the British, who controlled only the port cities of New York, Philadelphia, and Newport at this time, the revolutionaries possessed the vast expanse of the interior of

³⁷ For the British order to release unarmed American merchant seamen see, Lord George Germain to the Governor of New York. Whitehall. January 10th, 1778. *The Parliamentary Register*, 11:201-2; Memorial of Henry Shirley. September 2nd, 1778. Vol. 169, p. 134. Felt Collection, Massachusetts State Archives, hereafter cited as Felt Collection, *Massachusetts Archives*; Joseph Henderson to the Massachusetts Council. September 2nd, 1778. Vol. 169, p. 133. *Ibid.*; American Commissioners in Paris to Lord North. Passey, France. December 12th, 1777. *NDAR*, 10:1095-96.

the continent in which to confine British maritime prisoners. Washington had earlier advocated that British seamen be removed to inland towns where they could be more easily provisioned and quartered. Within the first year of the war, the revolutionaries had established detention facilities in the Pennsylvania, Maryland, and Virginia backcountry that could have housed British and loyalist sailors but instead were reserved primarily for terrestrial prisoners. Prison ships were neither an economic nor a military necessity for the revolutionaries, their primary purpose was vengeance. By 1779, Massachusetts, Connecticut, New York, Virginia, and South Carolina were all confining enemy prisoners on board prison ships.³⁸

Although Congress had not initiated the use of prison ships, Commissary General Boudinot approved of their usage for the purpose of retaliation. Having seen first hand "the cruel & unprecedented sufferings of the American Prisoners...on board the prison ships in New York," in June 1778 Boudinot was more convinced than ever of "the propriety of retaliation." For a man who had boasted only a year before that "humanity to Prisoners of War has ever been the peculiar Characteristic of the american [*sic*] Army," such a change of heart is telling. Like his colleagues in Congress, Boudinot had had enough of British atrocities compounded by false promises, denials, and excuses. Only swift and harsh action would bring them to heed American protests. That month Boudinot informed British authorities that in light of their treatment of American sailors, no further exchanges, either formal or informal, would take place. Boudinot's orders likely pleased Continental navy Commodore William Whipple, who had earlier suggested that Congress keep captured British sailors confined "as a security for those of

³⁸ Pierre Van Cortlandt to Brig. General George Clinton. Kingston, NY. June 10th, 1777. *NDAR*, 9:82.

our People who are sentenced by the British Tyrant & his Infernal Minions to a long imprisonment.” The misery of British prisoners, in Boudinot's opinion, would do more to relieve the distress of American prisoners than any strongly worded petition or remonstrance. The exasperated commissary hoped that "the complaints of the sufferers" would be enough to convince the British to adhere in future to "the laws of Justice or humanity."³⁹

Not all revolutionaries were as comfortable with retaliation as Boudinot. When handed "orders for Retaliation," Connecticut Commissary Williams initially procrastinated, blaming the weather for his dilatory response. He hoped to delay the harsh measures until a general exchange could be effected, liberating the prisoners under his care. Like numerous prior attempts, the cartel of 1778 failed miserably, and Williams was forced to confine captured British mariners aboard the prison ship at Norwich. He was soon deluged with protests from the prisoners. Writing to Boudinot, he confessed that "the Complaints have not been altogether groundless." Upon visiting the hulk, Williams discovered that many of the prisoners were "sick and Blind." The guards often deprived the prisoners of the full allotment of their already reduced rations, and the men were "very naked, & greatly in want of cloathing [*sic*]." Six prisoners perished within a month of confinement and a "Great part" of the rest were "sick, and feable [*sic*]." In early June, Andrew Huntington, one of Williams' subordinates based at Norwich,

³⁹ Boudinot to British Colonel Laurens. June 10th, 1778. Elias Boudinot Papers. HSP. In February 1778, British General Sir Henry Clinton acquiesced to Washington's request to allow an American commissary to visit the prisons in New York. Washington dispatched Boudinot who found the condition of Continental Army prisoners much improved. However, he did find "the sufferings of the Sea Prisoners" to be "severe, inhuman & intolerable." *Ibid.*, see also Boyd, *Elias Boudinot*, 54-56; Boudinot to James Wilson and Christian Forster. Morris Town, NJ. July 5th, 1777. Boyle, *Their Distress is almost intolerable*, 14. Governor Trumbull of Connecticut passed on Boudinot's orders to Ezkiel Williams on June 12th, 1778. Trumbull to Williams. Harford, CT. Parsons, ed., *Letters and Documents*, 34; William Whipple to John Bradford. Portsmouth, Massachusetts. July 20th, 1777. *NDAR*, 9:299-300; Boudinot to British Colonel Laurens. June 10th, 1778. Boudinot Papers. HSP.

informed him that "these Prisoners will Starve to Death" unless provided with adequate provisions quickly. In less than a month, the conditions on board the ship had deteriorated to such an extent that one Connecticut revolutionary remarked, "the Misery there Exceeds Description." Repulsed by his role in the prisoners' ordeal, Williams prayed that "the necessity of the measure may soon Cease." As he told Boudinot, "Retaliation is hard work."⁴⁰

Most revolutionaries, however, believed the British sailors received exactly what they deserved. To Thomas Shaw of Connecticut, the rigorous confinement "of those unhappy wretches in the prison Ship" was absolutely "necessary" in order to teach them "the dreadful effects of British cruelty [*sic*]." According to privateer captain Alexander Dickey, only by "Retaliating on those Tyrants" would the plight of captive American sailors ever improve. Samuel Blachley Webb, himself a survivor of British captivity, thought British prisoners should "die as ours do in New York from three to Eight a day." In his opinion, Connecticut authorities in charge of the prison ships should "shut them close under deck at sunset and starve them on two oz. of pork by day. Cruelty is oftentimes productive of the best consequences." If the British had adhered to the normative practice of naval warfare among European powers, none of this would have been necessary in their opinion. Americans had not wanted to fight this way— as one New-Jersey columnist explained, "we have borne their cruelty and frauds with a patience unparallel'd in history"— but the time to turn the other cheek had passed. The people of

⁴⁰ Ezekiel Williams to Elias Boudinot. Undated, [1778]. Elias Boudinot Papers. HSP; Williams to Boudinot. June 20th, 1778. *Ibid.*; Williams to Boudinot. May 22nd, 1778. *Ibid.* Thomas Shaw reported that "Six have died on board this Ship lately, & more Sick & dying." Thomas Shaw to Ezekiel Williams. June 13th, 1778. Parsons, ed., *Letters and Documents*, 36; Ezekiel Williams to Boudinot. Wethersfield, CT. June 20th, 1778. Boudinot Papers; Andrew Huntington to Ezekiel Williams. Norwich, CT. June 7th, 1778, Parsons, ed., *Letters and Documents*, 33; Benjamin Huntington to Trumbull. New London, CT. June 13th, 1778. *Ibid.*, 37; Williams to Boudinot. May 22nd, 1778. Boudinot Papers. HSP.

America would be "trampled on no longer." From now on, "every injury [would] meet its proper retaliation."⁴¹

Retaliation did not end with the prison ships; American privateers, who were the principal target of British persecution, were eager to exact retribution. Aptly named ships such as the *Retaliation*, *Revenge*, and *Reprisal* prowled the Atlantic searching for British booty and doling out American vengeance. Steeped in resentment, revolutionary privateers increasingly ignored the customary courtesies of naval warfare. When the British merchant vessel *Scipio* was captured by Massachusetts' privateers *Mars* and *Fanny* in early December 1777, the *Scipio*'s crew and passengers were treated "very roughly" and the ship plundered. Later that month, the British transport brig *Symmetry* [*sic*] ran aground off Wilmington and fell into American hands. According to a passenger, Sergeant George Thompson, the Americans boarded the ship and "made all the people on Board Prisoners, violently forcing the prisoners from the Deck of the Vessel, into the Long Boat—beating the lame, the Sick and Wounded with Clubs." Unsatisfied with the speed with which the prisoners debarked, one American sailor threw Thompson and his comrade Adam Grierson overboard. Unable to swim, Grierson drowned, while Thompson narrowly escaped a similar fate. As their American captors shuttled them to shore, the prisoners huddled together in the longboat for warmth, but because the Americans had "plundered the prisoners of their Hatts [*sic*] and Blankets," they suffered terribly in the late December air. Another prisoner, William Savage, "was so much Frost Bitten that the Skin and flesh dropped of [*sic*] his hand and feet." He soon

⁴¹ Thomas Shaw to Ezekiel Williams. June 13th, 1778. Parsons, ed., *Letters and Documents*, 36; Alexander Dickey to the Council of Massachusetts. June 21st, 1779. Boston, MA. Felt Collection, *Massachusetts Archives*. Vol. 170; Samuel Blachley Webb to Joseph Barrell. August 10th, 1779. *The Correspondence and Journals of Samuel Blachley Webb*, 2:192-3; *New-Jersey Gazette*, February 25th, 1778.

succumbed to his wounds. Thompson blamed Savage's death on the "severe treatment" he received. Once ashore, guards hurried the men, along with several women who were aboard, to jail where they were closely confined. Rather than being afforded their parole, the brig's officers were "confined in the same apartments with the private Prisoners, and subject in every respect to the same treatment." Thompson reported that 139 men and women were promiscuously crowded in jail with only four small kettles to cook their meager provisions.⁴²

Even vessels sailing under the theoretical protections of continental colors could fall victim to voracious American privateers. In July 1778, the unarmed brigantine *Elizabeth*, proudly sporting the new American flag, was forced to surrender to the Marblehead privateer brig *Freemason* after being riddled by grapeshot at near point blank range. Built in New York, and on an apparent course for the British-occupied city, the *Elizabeth* must have looked suspicious to the *Freemason's* captain who likely discounted the American ensign as a *ruse de guerre*. Despite the captured crews' protestations that the *Elizabeth* was in fact owned by "persons friendly & subject to the United States of America," the privateers boarded her with drawn cutlasses and "in a barbarous cruel & savage like manner, strip'd, beat, & wounded the crew" before putting several of the men "to pain & torture" to extract a confession that the ship was in fact bound for New York. Were the ship to prove American-owned, the privateers would not only forfeit a lucrative prize, they might also face criminal proceedings upon their return to Massachusetts. According to the owners of the *Elizabeth*, loyal revolutionaries and Boston merchants

⁴² Extract of a Letter from a Passenger on board the *Fly Sloop*, William Burden, Commander. Tenerife, December 26th, 1777. *NDAR*, 10:1152-3; *American Vessels Captured by the British during the Revolution and War of 1812* (Salem, Mass: The Essex Institute, 1911), 74-75; Deposition of George Thompson. Philadelphia, February 16th, 1778. Carleton Papers. Reel 3a, No. 945. DLAR.

William and Godfrey Hutchinson, the privateers abandoned caution, choosing instead to commit "divers[e]... acts of Violence [,] Cruelty & Tyranny... unprecedented but by pirates" against the suspected loyalist crew. Massachusetts authorities must have agreed with the aggrieved Boston merchants. The *Elizabeth* was not condemned as a lawful prize but instead auctioned by her original owners in May 1779.⁴³

Unlike the men of the *Elizabeth* who possessed affluent allies in Boston to argue their case, those captured sailors whose loyalty to the crown was not in question were prime targets for American recruiters. Emulating their British adversaries who regularly trolled the prison ships of New York and Newport for recruits to augment their ships' crews, American privateers had no qualms about impressing British seamen. Once captured, British sailors faced a grim choice: enlist on board an American privateer or suffer a rigorous confinement for noncompliance. Although contrary to the accepted practice of naval warfare, the British had openly committed what the American Commissioners in Paris described as "the deepest of all crimes:" forcing American seamen to take up arms against their countrymen. While American political and military officials admonished the British for this practice, American privateer and Continental navy officers regularly encouraged, prodded, and even coerced British prisoners to serve on American warships. The captain of the Massachusetts privateer *Speedwell* was not alone when he "ordered seven of the crew to be put in irons and threatened to keep them confined" unless they joined his crew. Another privateer officer "intered" [*sic*] William

⁴³ Petition of Samuel Chace and the owners of the Brigantine *Elizabeth* to the Massachusetts Council. August 21st, 1778, Boston, MA. Felt Collection, *Massachusetts Archives*. Vol. 169, p. 173; *The Independent Chronicle*, May 13th, 1779. Godfrey Hutchinson died in Martinique in 1779, the *Continental Journal* reported: "By letters from Martinico, we are informed of the death of Mr. Godfrey Hutchinson, late of this town, merchant—a gentleman much esteemed and respected, consequently his death is greatly lamented. He was Agent there for this State." *Continental Journal*, July 22nd, 1779.

Brown, a British sailor, into his crew only to decide that Brown was a “Dangerous Man” who wished to “have the pleasure of stretching our Necks.” Men like Brown who could not be induced to abandon their king were chained and brought to America to be confined on the prison ships. A British merchant sailor in Martinique witnessed “many English Sailors in chains, on board the Philadelphia Brig.” When he inquired “why they were so treated, [he] was answered that the Captains of the privateers had orders so to do, and to carry, or send all those they should take to America.” Just like for those American prisoners in New York, a rigorous confinement awaited British sailors who did not join forces with their foes.⁴⁴

Despite congressional orders for retaliation, those British and loyalist seamen captured in European waters were more likely to receive lenient treatment and speedy exchange than those taken closer to revolutionary communities bent on revenge. As late as 1779, Continental navy captains sailed to Europe with orders to treat their “prisoners with humanity.” After the 1778 French alliance, these orders were more easily carried out as Continental vessels refitting in French ports could rely on the assistance of their new allies to provide support for prisoners. Prisoners captured by American navy vessels, as well as privateers, now joined those captured by their French counterparts in the coastal prisons of France. Hardly comfortable, these prisons, which had been used to house British captives during the imperial wars of the preceding century, were nonetheless significantly better constructed, administered, and provisioned than the congested jails and prison ships in America. Of signal import to the prisoners,

⁴⁴ American Commissioners in Paris to Lord North. Passey, France. December 12th, 1777. *NDAR*, 10: 1095-96; *London Chronicle*. November 18th, 1777; *Ibid.*, 10:1001; Prager Tearnay to Thomas Bradford. Undated. Thomas Bradford Papers. Naval Prisoners. Box 11 F 43. HSP; Deposition of Josiah Durham. St. Vincent. December 13th, 1777. *NDAR*, 10:732.

incarceration in a French prison also carried with it the promise of exchange. Under no political constraint from treating the French as legitimate combatants, the British admiralty willingly traded these men for French prisoners in its custody. The British were even willing to exchange American prisoners, provided the agreement conferred no acknowledgement of American independence. The American Commissioners in France headed by Benjamin Franklin worked tirelessly with the British admiralty to release hundreds of American sailors from their confinement in England. Only a misunderstanding between Franklin and the French naval minister over who was responsible for sending in the British prisoners to be exchanged prevented the wholesale release of American captives in Britain.⁴⁵

In North America, the exchange situation could not have been more different. The hopes of maritime prisoners on both sides for a general exchange were dashed when in March 1778 a conference to establish a cartel ended in failure. Although the British were increasingly anxious to divest themselves of diseased American prisoners and to recoup their well-trained sailors and socially prominent officers, Congress, weighing the cold calculus of war, concluded that a general exchange was not mutually advantageous because those American prisoners whose health had not been shattered by lengthy confinement were unlikely to return to their ships to run the risk of a second captivity. On the other hand, British soldiers and sailors, trapped on the wrong side of the Atlantic, would have little choice but to return to the colors if they ever hoped to see home again. Seeking to sabotage the negotiations, Congress resolved that "that no exchange of prisoners be made" until the British paid for all of the provisions previously provided to

⁴⁵ Cohen, *Yankee Sailors*, 158-9 and Catherine M. Prelinger, "Benjamin Franklin and the American Prisoners of War in England During the American Revolution," *The William and Mary Quarterly*, Third Series, Vol. 32, No. 2 (April, 1975), 261-94, 262.

prisoners in American custody, including the expenses of the Convention army. Despite being aware that it was Congress not the British that owed the lion's share of expenses for prisoner upkeep, Congress insisted that the British reimbursement be paid in specie rather than continental currency. This was a demand Congress knew the British would never agree to because the influx of hard cash might stabilize the drastically deflated continental dollar and improve Congress's international credit. The conference was effectively over before it had even begun. No friend of Congress, Alexander Hamilton denounced the "refined politicians" for their "*Neronian* maxims" that overstepped their authority and nullified Washington's negotiations. He believed that Congress sought "to put off an exchange, perhaps forever," thus consigning "those men who are foremost in defence [*sic*] of their country to the miseries of hopeless captivity." Such civilian meddling in military affairs, uncountenanced in European warfare, would "ruin our national character." From Congress's perspective, British violations of the customs of war more than justified the subterfuge. Although not a matter of military necessity, derailing the cartel was certainly in the best interests of the new nation. As the congressional committee tasked with reviewing the cartel informed Washington, "Interest alone (and not Principles of justice or Humanity) governs Men." A far cry from its earlier professed commitment to the humanitarian underpinnings of "civilized warfare," Congress was now willing to let prisoners on both sides suffer in silence with little hope of release. Fortunately for the prisoners, Congress, largely impotent at the local level, could not prevent state officials from taking matters into their own hands.⁴⁶

⁴⁶ At this period, the bulk of the American prisoners held by the British were sailors while American authorities possessed mainly army prisoners. Congress was concerned that the return of veteran regiments of British soldiers might tip the balance against the revolutionaries in the ensuing campaign. *JCC*, 10:198; *Ibid.*, 9:1037; Haffner, "The Treatment of Prisoners of War," 300; Hamilton to George

With Congress blocking a general exchange, state governments realized that the only prospect of seeing their captured constituents released was through informal, individual exchanges. Naturally preferring to reclaim men from their own communities, these governments pressed their privateer fleets to bring in prisoners for exchange. Privateer captains, who had previously preferred to release their captives on parole, were now induced to hold the prisoners in the hopes of redeeming their friends, crewmen, and countrymen. Predictably, social status and personal connections played a considerable role in determining who was exchanged when. Captured officers or elite passengers with prominent friends who could pester governors and state commissaries on their behalf were far more likely to be exchanged than common seamen. This practice infuriated Washington, who from the beginning of the contest sought to exchange men based on length of captivity, not social prominence. In his opinion, state-sponsored exchanges should be "soon abolished" as "the system has been productive...of great inconveniences and discontents." Congress, however, could not oblige the general without meddling in state affairs and thus repudiating the very republican principals upon which it was founded. The best it could do was pass a resolution in early 1780 that "earnestly recommended" the suspension of state exchanges. Unsurprisingly, state officials continued to do as they pleased. But without an established cartel or routinized system of exchanging prisoners, enemy seamen began to accumulate in America's port cities at an alarming rate.⁴⁷

Clinton. Valley Forge, PA. March 12th, 1778. Syrett and Cooke, eds., *The Papers of Alexander Hamilton*, 1:440; *LMCC*, 3:115-120. The exchange of prisoners informally, based on the honor of the officers engaged in the negotiation, continued throughout the war, but Britain and the United States were never able to establish a general cartel for the exchange of prisoners. See Knight, "Prisoner Exchange," 201-222.

⁴⁷ Knight, "Prisoner Exchange," 207; Washington to the President of Congress. January 4th, 1780. Morristown, NJ. *The Writings of George Washington*, John C. Fitzpatrick, ed., (Washington, DC, 1931-1944), 39 vols., 17:354.

The revolutionary capital of Philadelphia was no exception. Within a short walk of congressional meeting halls, British sailors clung to life in Philadelphia's New Jail. The prison's name belied the deplorable conditions found inside its walls. Used by the British to confine American prisoners during the city's occupation, the jail had been the scene of manifold agonies. Poor provisions, lack of sanitation, and overcrowding resulted in untold deaths from disease, privation, and exposure in the winter of 1777-1778. With Philadelphia once more in American hands in the fall of 1778, only the political allegiance of the jail's occupants changed when American authorities began to confine British prisoners in the now dilapidated prison. Captured by Pennsylvania state forces in November 1778, the crew of the British Sloop *Hotham* soon found themselves locked inside the New Jail, "destitute of almost every kind of Cloaths [*sic*], without even Blankets to cover them from the inclemency of the night." Summarizing their "distress'd situation," the crew's commander, Lieutenant Christopher Hale, noted that "several of the crew are already Ill the rest will naturally fall as nature cannot possibly support" so harsh a confinement. Pennsylvania's commissary of naval prisoners, Thomas Bradford, who was responsible for Hale's imprisonment, confined the men with the approbation of Congress's new Commissary General of Prisoners, Jonathan Beatty, who had replaced Boudinot in the summer of 1778. Within weeks of accepting his new position, Beatty suggested to Bradford that he closely confine "any of the sea officers or sailors" in his custody who might become "impudent." Bradford took his advice to the extreme. All of the maritime prisoners were crowded together in three of the jail's rooms, deprived even of a daily stroll in the prison yard.⁴⁸

⁴⁸ The "New Gaol" was built in 1776 on Walnut Street between Sixth and Prune (now Locust). It was designed to house prisoners in large open rooms. See Negley King Teeters, *The Cradle of the*

Loyalists in New York were outraged. While American papers boasted of the revolutionaries' "heroism, generosity, and sentiment," British "sailors, taken by [rebel] pirates" were "abandoned in places where they have no acquaintance, protector, or friend," according to the *New-York Gazette*. Such was the "enthusiastic hatred raised against" the prisoners that no one could "shew [*sic*] them even common civility, for fear of persecution" by rebel "mobs." Hardly the proportional retaliation legitimized by the laws of war in Europe, this mistreatment was particularly galling because conditions aboard British prison ships had much improved in the wake of the appointment of Sir Henry Clinton as the new crown commander in the colonies. The ships remained crowded and disease was unavoidable, but according to an American privateer confined aboard the *Jersey*, then serving as a hospital, in 1779, the prisoners "are treated Extremely Well by the officers here...& live Very Happy together." He and his fellow captives had the pleasure of going "ashore almost Every Day" to get exercise and consequently they were "Very Healthy... (Not a Man sick)." To the loyalists, it looked as if the revolutionaries were using the British prison ships as a pretext to indulge their innate cruelty. When informed that privateer Captain James Duncan and Royal navy Captain Hawker were "kept close confined in a dirty durance" in Philadelphia and fed only "rations of salt provisions," a loyalist correspondent for the *Royal Gazette*— who claimed that the only American sailor of captain's rank in the city enjoyed a indulgent parole— demanded that the Americans take a lesson from "the sensibility and lenity of

Penitentiary: The Walnut Street Jail at Philadelphia, 1773-1835 (Philadelphia, PA: Pennsylvania Prison Society, 1955). For more on penal culture in early Philadelphia see Michael Meranze, *Laboratories of Virtue: Punishment, Revolution, and Authority in Philadelphia, 1760-1835* (Chapel Hill, NC: University of North Carolina Press, 1996); Christopher Hale to unknown recipient, likely Thomas Bradford. "New gail [*sic*]," Philadelphia. November 15th, 1778. Thomas Bradford Papers. Naval Prisoners. Box 10, F 18. HSP; Jonathan Beatty to Bradford. Princeton, NJ. August 14th, 1778. *Ibid.*, Army Prisoners. Box 21, F 6; John Nairn to Thomas Bradford. New Jail, Philadelphia. July 17th, 1779. *Ibid.*, Naval Prisoners. Box 10, F 38.

our government to the rebel officers who have become prisoners" and "Reform this altogether."⁴⁹

Lenience was not the lesson Congress had learned from the British. With famed American privateer Gustavus Conyngham chained in England under charges of piracy in early 1779, the congressional Marine Committee approached Pennsylvania's commissary Bradford for a suitable subject for retaliation. Bradford had just the man: Lieutenant Christopher Hale of the *Hotham*. Hale, whose commission from King George should have entitled him to lenient terms under his parole of honor according to the customs of European naval warfare, was already closely confined in a noxious cell among common sailors without "the smallest hope of an Exchange" when Bradford came for him. Rather than allowing the lieutenant to go into New York on his parole to arrange his exchange, Bradford, on Congress's instructions, shackled Hale in solitary confinement in the jail's dungeon. Only Conyngham's eventual escape from an English prison convinced Congress to relax the severity of Hale's confinement. To Commissary Beatty, no stranger to the law of retaliation, Congress's actions seemed "so harsh like obstinacy." He feared "it will produce some bad effects in the Line of naval Prisoners."⁵⁰

⁴⁹ *New-York Gazette*, April 13th, 1778. At the time, the *Jersey* was being used as a hospital ship. Reed noted that the conditions aboard the other prison ship in the harbor were less salubrious. Curtis Reed to Sibbil Reed. June 21st, 1779. On board HMS *Jersey* at New York. American Revolution Collection. Box 1, Folder 10B. CHS. On June 24th, 1779, John Adam, the deputy commissary of prisoners based in Elizabeth Town, NJ, informed Bradford that the British promised that "for the future they [American maritime prisoners] should be better done by." One of Joshua Loring's assistants, a Mr. Burson, had ordered "the ship *Jersey* to be put in repair with convenient births, where the sick was to be removed, and that due care should be taken to keep the sick & well apart, and wholesome Provisions issued them." John Adam to Bradford. Elizabeth Town, NJ, June 24th, 1779. Thomas Bradford Papers. HSP. Army Prisoners. Box 22, F 3. The loyalist columnist for the *Royal Gazette* also claimed that the sailors in the New Jail were "attacked in their prison by a body of armed rebels, on a pretence of an Intended insurrection, which had not the smallest foundation in truth. Four and twenty of the sailors were cruelly hacked, and many of them dangerously wounded." *The Royal Gazette*, August 26th, 1778.

⁵⁰ Marine Committee of Congress to Bradford. January 1st, 1779. Philadelphia, PA. Thomas Bradford Papers. Naval Prisoners. Box 10, F 20. HSP; Christopher Hale to unknown recipient, likely Thomas Bradford. "New gail [*sic*]," Philadelphia. November 15th, 1778. *Ibid.*, Box 10, F 18. The Marine

New to his post, what Beatty could not understand was that by the summer of 1779, Congress was convinced that cruelty was the only language the British understood. Daily petitioned by suffering seamen in New York and constantly apprised of the depredations of loyalist privateers, Congress was now officially prepared to fight British fire with fire. On July 15th, 1779, Congress ordered the Marine Committee "to cause the crews of vessels captured from the enemy, to be confined on board prison ships, and supplied and treated in all respects in the same manner as the crews of vessels belonging to these United States and captured by the enemy, are supplied and treated."

Congressional exchanges of maritime prisoners ground to a halt as British sailors were funneled into prison ships and jails for the purpose of retaliation. Even before the July resolution, Congress had discouraged exchanges, preventing Commissary Beatty from meeting his obligation to his British counterpart. Beatty thought "the conduct of Congress in this particular" was "preposterous." Without "full & impartial Exchanges of all Sea prisoners," the American captives in New York would have "no other alternative before them than entering the enemy's service or starving to death in a loathsome prison ship." The men were "neglected by their countrymen, their employers & the public."

Beatty was in the minority. By late June 1779, most ardent revolutionaries agreed with a correspondent for the *Virginia Gazette* who exhorted his countrymen "to wreck your vengeance upon an enemy the most barbarous and cruel." He was confident that "indignation shall hurry us to action." A Connecticut paper proudly predicted that

Committee ordered Beatty to remove Hale's irons on September 21st, 1779. *Ibid.*, Box 11 F. 10; Jonathan Beatty to Thomas Bradford. April 6th, 1779. *Ibid.*, Box 10, F 23.

American "retaliation" and "vengeance" would soon make the British "repent in tears of blood!"⁵¹

Predictably, when congressionally sanctioned retaliation became the order of the day, local revolutionary officials turned a blind eye to their prisoners' misery like never before and the allegations of American mistreatment of British sailors proliferated. In November 1779, British privateers complained to the Board of War that "they were confined in the Prison Ships & extremely ill treated." In a similar vein, Captain Ourry of the HMS *Somerset* reported that he experienced "ill usage" during his confinement in "Boston harbour on board a Prison Ship which had no Cabin Windows, very Cold Weather, and without any furniture or Comfort." Ourry was fortunate to escape. The situation in American jails and prison ships continued to deteriorate as the war dragged on. Congressional and state orders for retaliation only served to exacerbate omnipresent provision shortages and overcrowding. When the Massachusetts Council gave orders "for Curtailing Rations for Prisoners on board [the] Guard Ships," the state commissary of prisoners, Joshua Henderson, was forced to admit that "for three Months past it has been out of the Commissary Genl's power to furnish [them] with half the stipulated Rations not having them in his Possession." The British sailors survived on "Salt Beef & Bread" alone. Rather than ameliorating the prisoners' plight by improving their supply of food, the Council sent Henderson "fifty pair of Hand Cuffs for the Prisoners on Board the Guard Ship as also fifty fathom of Rope" to bind the prisoners should hunger make them unruly.⁵²

⁵¹ *JCC*, 14:837; *Virginia Gazette*, June 28th, 1779; *Norwich Packet*, August 3rd, 1779.

⁵² On November 12th, 1779, Congress resolved to leave the use of prison ships for retaliation up to the Marine Committee's discretion. *JCC*, 15:1262. They reiterated their commitment to proportional retaliation on January 5th, 1781. *Ibid.*, 19:28; Richard Peters to Thomas Bradford. War Office November

Unfortunately for the captured British seamen, the severity of their confinement did not slacken with the passage of time. In September 1780, the newly established American Board of Admiralty demanded that the “the same severe discipline which the British use with regard to our men” be employed against the maritime prisoners on board the prison ships. They hoped these measures would “suppress their refractory sprits” and “prevent their doing mischief.” The prisoners' predicament was so perilous that the British Commissary of Naval Prisoners, David Sproat, who understandably had been largely silent on the issue of prisoner treatment previously, admonished Thomas Bradford that “there are more complaints of ill treatment received in Philadelphia, than from all the other places in the Country.” Sproat begged Bradford “to use the prisoners with a little more delicacy,” and ended with the thinly veiled threat that Bradford should remember that “the old Golden rule was to ‘do as you would be done by.’” If the revolutionaries still hoped that retaliation would end the suffering of their prisoners, they would be disappointed. Abuse only begat more abuse.⁵³

The British, however, had a plan to end the odious cycle of retaliation. While Congress continued to demand retribution and capricious committees and commissaries vented their frustrations on British sailors in their custody, the British proposed an exchange, in Commissary Sproat's words, “for humanity's sake,” that might finally prove

16th, 1779. Thomas Bradford Papers. Naval Prisoners. Box 11 F 28. HSP.; *The Kemble Papers*, 2:174; Joseph Henderson to the Massachusetts Council. April 22nd, 1779. Boston, MA. Felt Collection, *Massachusetts Archives*. Vol. 170; Resolves of the Massachusetts Council. May 25th, 1779. Boston, MA. *Ibid.*, Vol. 170. In June 1779 the Council was informed that the prison ship was “so much crowded with Prisoners that the lives of the Prisoners are endangered.” They authorized Henderson to purchase a second one. Resolves of the Massachusetts Council. June 29th, 1779. *Ibid.*, Vol. 170.

⁵³ Board of Admiralty to the Commissioners of the Navy Board of the Eastern Department. September 5th, 1780. Charles O. Paullin, ed., *Out-Letters of the Continental Marine Committee and Board of Admiralty: Augst, 1776-September, 1780* (New York: New York Historical Society, 1914), 2 vols., 2:258; David Sproat to Thomas Bradford. September 10th, 1780. Thomas Bradford Papers. Naval Prisoners. Box 13 F 12. HSP.

mutually beneficial. The war at sea had been going Britain's way, and the British high command in New York found itself in possession of far too many American mariners to adequately quarter and provision without remuneration from Congress. Aware that the bulk of British and loyalist seamen were held under the jurisdiction of individual states rather than the Continental Congress, Sproat devised a proposal in January 1781 to alleviate the distress of prisoners on both sides; he would offer to accept British soldiers in return for American privateers. Congress still detained enough enemy soldiers under the Convention of Saratoga to liberate every American sailor in New York. For the time being, Sproat would even overlook Congress's debt. Knowing that without proper clothes, blankets, and provisions, the American sailors would suffer "from the hardships of the then approaching winter," Sproat hoped "to free as many as possible." Despite the seeming equitability of his offer, Congress had no intention of acceding to it. In its collective opinion, the return of General Burgoyne's veteran regiments for a pack of mercenary adventurers was a bad bargain. Given the military situation in the winter of 1781— Pennsylvania troops had mutinied in early January and France's expeditionary force in Rhode Island had shown no sign of offensive alacrity— Congress's decision makes sense. Yet even a year later, with thousands more British soldiers in American custody after the capitulation of Cornwallis, Congress remained unwilling to agree to the British proposition. Although Washington deeply regretted "the situation of these unfortunate people," in his opinion, "Mr. Sproat's proposition" was simply not in the best interest of "the public good." The return of Burgoyne's troops might turn the tide in Britain's favor. There would be no exchange.⁵⁴

⁵⁴ Sproat to Skinner. January 29th, 1781. New York. James L. Banks, *David Sproat and Naval Prisoners in the War of the Revolution* (New York: Knickerbocker Press, 1909), 45; *Royal Gazette*,

Outraged at being accused of deliberately murdering American maritime prisoners while Congress refused the only practical solution for their relief, Sproat went on the offensive. He informed the American prisoners aboard the *Jersey* prison hulk that he would gladly "grant you speedy relief, by exchanging you for a part of the British soldiers, prisoners" of Congress, but that American authorities responded with "a flat denial." Not only was Congress to blame for the American naval prisoners' misfortune, the revolutionaries were likewise guilty of gross mistreatment of British prisoners under the spurious pretence of reciprocity. Writing to Bradford, Sproat blamed the Americans for forcing British marine prisoners to march "five or six hundred miles" from prison to prison while all time depriving them of adequate sustenance. He scathingly reproached the American commissary: "Bread and water is the subsistence of Felons Sir, and our prisoners with you have been fed upon that alone." Sproat followed up his private complaints with a widely published letter to the new Continental Commissary General of Prisoners, Abraham Skinner, in which he accused the Americans of treating loyalist privateers "with every species of insult, outrage and cruelties' sufficient to disgrace any nation beyond the mountains." Not even Jacobite Scottish highlanders had been guilty of such inhumanity. Through their treatment of British prisoners, under the guise of "an exercise of the law of retaliation," the revolutionaries abrogated any claim to being a "civilized" nation in his opinion.⁵⁵

February 7th, 1781 and *New-York Gazette*, February 12th, 1781; Washington to John Laurens. April 9th, 1781. New Windsor. *The Writings of George Washington*, 21:439; George Washington to the President of Congress. February 28th, 1782. Philadelphia, PA. *Ibid.*, 24:5-6.

⁵⁵ *JCC*, 21:829-30; Sproat to the Prisoners of the *Jersey*, June 11th, 1782. New York. Banks, *David Sproat*, 73; Sproat to Bradford. May 5th, 1777. New York. Thomas Bradford Papers. Naval Prisoners. Box 14, F 2. HSP; David Sproat to Abraham Skinner New York. January 29th, 1781. *Royal Gazette*, February 7th, 1781 and *New-York Gazette*, February 12th, 1781. See also Banks, *David Sproat*.

There was much truth to Sproat's accusations. With little hope of exchanging British maritime prisoners in light of Congress's resolution, state and congressional commissaries shuttled the captives from one prison to the next to spread the burden of provisioning them, losing men to disease, privation, and escape along the way. In July 1781, Congress's deputy commissary of prisoners in Lancaster, Pennsylvania, informed Bradford that he planned to send most of his "Marine Prisoners" to Philadelphia because the camp was "most horridly crouded [*sic*]...the Prisoners very sickly." Once arrived in the city, these men were jammed into the New Jail. Even if he had been so inclined, Bradford could not release either the officers on parole or the men on their own recognizance to labor for local craftsmen because he had orders from the congressional Board of War to "confine all naval prisoners of war of whatever description in close Jail." According to the British commissary of prisoners in Bermuda, two privateer captains, who spent the summer of 1781 incarcerated in the American capital, were "treated with such Severity—as to have been kept several weeks with hardly a sufficiency of provision to sustain them and that of the very worst kind." Unwilling to accept any personal responsibility for either the treatment of British prisoners in his custody or the American seamen in New York awaiting an exchange that would never come, Bradford placed the blame on the British and "their cruel treatment of our prisoners." In his opinion, British action justified "a severe Retaliation on the heads of some poor unfortunates, who may fall into our hands." For the remainder of the war, ardent revolutionaries like Bradford continued to insist that the prisoners' misfortune stemmed from British "savagery" not American intransigence and that retaliation was the only means of obtaining redress. Yet

even Bradford knew that Congress's obstinacy in matters of exchange had "proved fatal to a number of our poor Seamen."⁵⁶

Relief finally arrived for the unfortunate sailors in New York when the new British commander, Sir Guy Carleton, received word in July 1782 that Parliament, realizing that military victory was improbable, had relented to American demands and granted American captives official prisoner-of-war status. With this impediment to an exchange removed, Carleton immediately reached out to his American counterparts to implement a general cartel. While he awaited a commission from General Washington, Carleton liberated hundreds of American seamen as a show of good faith. Hundreds more American sailors left jails in Britain and the West Indies as freemen for the first time in years. British authorities were confident that the Americans would return an equal number of the king's men. No longer seeking to suppress the rebellion, Carleton's only concern was to extricate as many British soldiers and sailors as possible from American custody.⁵⁷

Congress was unimpressed. Fearing that the British would use these unilateral prisoner releases to avoid paying the debts accrued for the upkeep of British prisoners in American custody, Congress informed Washington that he was forbidden to free any British prisoners until Carleton agreed to remuneration. Without the authority or funds to

⁵⁶ William Atlee to Bradford. Lancaster, PA. July 16th, 1781. Thomas Bradford Papers. Naval Prisoners. Box 14, F 20. HSP.; Board of War to Bradford July 27th, 1781. Philadelphia, PA. *Ibid.*, Box 14, F 25; Pendock Neale to Bradford. August 12th, 1781. Bermuda. *Ibid.*, Box 14, F 29. HSP; Bradford to Pendock Neale. Philadelphia, PA. September 10th, 1781. Vol. 1. Thomas Bradford Letter Book. AM: 639. 2 vols, HSP. John Adam, the congressional Deputy Commissary General of Prisoners based in Massachusetts, blamed Bradford for delaying the exchange of British and American sailors, but Bradford was acting on congressional orders to keep the men closely confined. John Adam to Bradford. November 12th, 1781. Thomas Bradford Papers. Naval Prisoners. Box 15, F 11. HSP.

⁵⁷ Bowman, *Captive Americans*, 114. Four hundred American sailors arrived in New York in August, 1782 and were soon released by General Carleton. The British released seven hundred more in Boston that month as well as 132 in Philadelphia. Burrows, *Forgotten Patriots*, 195; Nelson, *General Sir Guy Carleton*, 162-3.

acquiesce to Congress's demands, all Carleton could do was propose a general exchange, man for man. Just as in all prior exchange conferences, when the commissioners from both sides met in late September, the negotiations immediately broke down. Carleton was convinced that the Americans had never had any intention of exchanging the prisoners; they planned to hold the men as hostages to guarantee that Parliament would recognize the new nation's independence. Exacerbating an already precarious situation, Congress resolved to threaten Carleton that if prompt payment were not soon made, "Congress would be compelled to take measures however disagreeable, for diminishing a burthen which has become intolerable." Carleton got the hint, if he did not pay up, the British prisoners' rations and other necessities would be further reduced. Incensed, the British general accused Washington of violating the customs of war: "It has not been usual I think, since the barbarous ages to use any menaces, however obscure, towards prisoners and still less to practice towards them any acts of barbarity." By refusing to release British prisoners when so many Americans had been sent home, Congress appeared to intend "to bring the war to the last extremities of rage." He had no choice but to cease releasing American prisoners. Relinquishing the hope of ever obtaining the prisoners through exchange, Carleton requested and received permission to send them sorely needed supplies. When thirty-eight wagonloads of provisions were seized by Pennsylvania militia forces in April 1783, neither Congress nor the Pennsylvania Assembly could do anything about it. The prisoners would simply have to do without. Fortunately, they would not have to endure for long.⁵⁸

⁵⁸ *JCC*, 23:462-3; Nelson, *General Sir Guy Carleton*, 163; *JCC*, 23:660. As Carleton so eloquently phrased it, "in passing sentence on British prisoners, Congress should recollect, that it is passing the like sentence on those of America who are, or may fall, into our hands." Carleton to Washington. October 25th, 1782. New York. *Founders Online*; Nelson, *General Sir Guy Carleton*, 164.

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When word of the articles of peace ordering the mutual release of prisoners reached New York in April 1783, both sides opened the hatches of their hulks and unbarred the doors of their jails. For the hundreds of British and American sailors still languishing in prison, their ordeal was finally over. These were the fortunate few; thousands more would never return from captivity. Because of the decentralized character of revolutionary prisoner administration, we will never know how many British and loyalist seamen suffered and perished in American custody. It is clear, however, that the cycle of violence continued until the very end, costing the lives of countless prisoners who so easily could have been exchanged had both Congress and Parliament privileged humanitarian concerns over national pride and material advantage. Long after Cornwallis surrendered at Yorktown, neither the Americans nor the British forswore the use of prison ships and neither side made a concerted effort to alleviate the sufferings of the maritime prisoners in their hands.⁵⁹

Revolutionary Americans' initial commitment to the humane treatment of enemy prisoners of war was no mere rhetoric however. Scholars are correct to highlight how the deeply-engrained conceptions of Enlightenment humanitarianism and the laws of nations conditioned American thinking about the conduct of war between "civilized peoples." Nonetheless, in stressing this point, they have often ignored or glossed over just how

⁵⁹ For the most recent, and most forcefully argued, statement of this dichotomy see Burrows, *Forgotten Patriot*. David Hackett Fischer has made a similar argument. Fischer, *Washington's Crossing*, 190. In his examination of the American treatment of enemy prisoners during the war, Robert C. Doyle argues that the Americans accorded British and Hessian prisoners humane treatment, while loyalists were subjected to American "hatred." In reality, both groups were subjected to increased violence as the revolutionaries came to re-imagine their enemies as "uncivilized" and therefore undeserving of humane treatment. Doyle, *The Enemy in Our Hands*, 3.

easily this commitment eroded when war began. In light of how devoted elite revolutionaries were to upholding European customs of war at the conflict's outset, this oversight is unsurprising. At its inception, the revolutionaries themselves could never have imagined the violence of the war that would ensue. Despite a keen awareness of the British military's prior suppression of rebellions among the Irish, Scots, and native peoples of North America, they were unprepared for the severity with which the British forces prosecuted the war. Unlike these former groups whose customs, languages, and religions made them alien to their British opponents, Americans thought of themselves as Englishmen, and by extension members of the "civilized" world. Their grievances required the resort to violence, but that violence would be limited to the clash of arms in battle.⁶⁰

Once Parliament declared American combatants traitors and pirates beyond the protections of either English law or prisoner-of-war status, however, the revolutionaries authorities responded not by reaffirming their dedication to the restraint of violence as enshrined in the Enlightenment customs of the laws of war, but by declaring the British "barbarians" and loyal Americans "rebels." Reconceived in this way, British maritime prisoners became ideal targets for retaliation. Legitimized by congressional resolve, the policy of retaliation soon spiraled well beyond Congress's initial intent. Outraged by the British mistreatment of American sailors, ordinary Americans vented their frustrations on enemy seamen. Even when revolutionary officials sought to improve prisoners'

⁶⁰ Wayne Lee's study of the cultural transmission of European Enlightenment ideas about war across the Atlantic remains the best. Lee, *Barbarians and Brothers*. See also, J Dederer, *War in America to 1775*. Often viewing the issue of prisoner treatment thematically rather than chronologically, scholars have previously recognized very little variation from the revolutionaries' initial policy of humanity. Haffner, "The Treatment of Prisoners of War," Dixon "Divided Authority," Krebs, *A Generous and Merciful Enemy*.

conditions and to reaffirm the nation's commitment to the customs of war in Europe, Congress's reluctance to compromise either political or military advantage prevented the optimal solution: a large-scale informal exchange. Held with little prospect of release in increasingly deplorable conditions, enemy mariners were at the mercy of local administrators, largely independent of congressional oversight. This confluence of factors created a climate of persecution and vengeance unthinkable when the first American vessels brought the war to the high seas in 1775. Although America's political and military leaders escalated the severity of their treatment of enemy sailors in order to induce the British to conform to the customary practices of prisoner treatment in European naval warfare, by war's end the distinction on the ground between America's proportional retaliation and Britain's barbarous cruelty existed on paper alone.

Conclusion: The Memory of War

In the years after 1783, revolutionary Americans of all stripes sought to put the war's violence behind them. George Washington and his generals resigned their commissions, and Congress disbanded the Continental army soon after the peace treaty's ratification. The men who had survived British captivity in New York, Philadelphia, Newport, Charleston, Canada, and Britain itself, returned to their homes to ply their peacetime trades. Sailors took to the seas without fear of capture and farmers returned to their fields unburdened by the threat of British patrols or loyalist marauders. No longer occupying their cities and imprisoning their citizens, the British now seemed innocuous to most Americans. Trade with their former tormentors soon resumed, and Americans once again read British books, wore British woolens, and drank British tea. In the now peaceful United States, even former loyalists could be forgiven. Defeated and dispossessed, the loyalists looked like objects of pity, not prosecution. All of the states soon passed laws pardoning those people they had once so vigorously persecuted. The memory of British and loyalist atrocities, as well as American acts of retaliation and retribution, began to fade.¹

Nonetheless, elite revolutionaries remained uneasy about the war and their role in its violence. Having taken to arms to defend their inalienable rights, men like George

¹ Kariann Akemi Yokota, *Unbecoming British: How Revolutionary America Became a Post Colonial Nation* (Oxford: Oxford University Press, 2011), 13, 62-114; Van Buskirk, *Generous Enemies*, 177, 181, 188-195; Robert M. Calhoon, "The Reintegration of the Loyalists and the Disaffected," in Robert M. Calhoon, Timothy M. Barnes, and Robert S. Davis, eds., *Tory Insurgents: The Loyalist Perception and Other Essays* (Columbia: University of South Carolina Press, 2010); Burrows, *Forgotten Patriots*, 208-9. See also, Rebecca Brannon, "Reconciling the Revolution: Resolving Conflict and Rebuilding Community in the Wake of Civil War in South Carolina, 1775-1860" (Ph.D. diss.: University of Michigan, 2007) and Brett Palfreyman, "Peace Process: The Reintegration of the Loyalists in Post-Revolutionary America" (Ph.D. diss., Binghamton University, 2014).

Washington, Thomas Jefferson, and Nathanael Greene had believed that the manner in which the war would be fought would reflect the justice of their grievances, the nobility of their cause, and the legitimacy and civility of their new nation in the eyes of their European peers. They were soon disappointed. The realities of the war looked nothing like their idealized vision of restrained and decorous European combat. No believers in perpetual peace, the revolution's leaders were determined that this would never happen again. In future, vengeance would have no place in America's wars.

In September 1784, Jefferson sketched a series of rules for the future conduct of war, and especially the treatment of prisoners, in his draft of a model "treaty of Amity and Commerce" between the United States and the kingdom of Denmark. Far more than a straightforward trade agreement, Jefferson's treaty was nothing short of a repudiation of the way America's independence had been won. Article 24 of the document—the longest and most detailed article in the draft— forbade either nation from confining prisoners "in dungeons, prisonships [*sic*], nor prisons" in times of war between the two powers. Once captured, the enlisted men were not to "be put into irons, nor bound, nor otherwise restrained in the use of the[ir] limbs," and the officers were to "be enlarged on their paroles within convenient districts and have comfortable quarters." Both sides would furnish their prisoners with the same "ration[s] as they allow to a common souldier [*sic*] in their own service," the cost of which would be reimbursed equitably at the cessation of hostilities. Most importantly, both nations would "sacredly" uphold the treaty and under no pretense violate its articles. Bad behavior by one side did not justify retaliation by the other. This was a significant departure from Vattel's *The Law of Nations*, which authorized proportional retaliation in cases of gross violation. Unlike the

mid-eighteenth-century Swiss jurist, Jefferson made no allowance for retaliation, no matter the provocation.²

While serving as governor of Virginia during the war, Jefferson had seen first-hand how easily proportional retaliation could devolve into a violent cycle of vengeance. He had personally ordered British officers to be chained and locked in dank and overcrowded prisons. He had sent loyalist civilians and British enlisted men to their deaths aboard disease-infested prison ships. And he had refused to supply the prisoners of the Convention army with anything resembling rations equal to those received by American soldiers. Jefferson had fought a war of vengeance, he knew its horrors, and he never wanted his countrymen, or their opponents, to endure it again. Inexplicably, Article 24 was not included in the final treaty with Denmark, but it was reintroduced and agreed to in the 1785 treaty between the United States and the kingdom of Prussia. Defending the inclusion of the article to Prussian envoy, Baron Friedrich Wilhelm von Thulemeier, Jefferson and his fellow commissioners, Benjamin Franklin and John Adams, asked: "Why should not this Law of Nations go on improving?" In their opinion, though still necessary for adjudicating national disputes, war could be further moderated "by softening and diminishing" its "calamities." Though the treaty was popular, for many in the new republic, lessening the severity of future wars was not enough; the war of the revolution itself had to be re-imagined.³

² "IV. Draft of a Model Treaty, 1784," *Founders Online*; Krebs, *A Generous and Merciful Enemy*, 268-70.

³ Krebs, *A Generous and Merciful Enemy*, 270-71; "American Commissioners to De Thulemeier, with Observations on Treaty, 10 November 1784," *Founders Online*.



(Fig. 5)
The Capture of the Hessians at Trenton, by Jonathan Trumbull
Yale University Art Gallery

In the late 1780s and early 90s, believing the brutality of retaliatory warfare behind them, elite Americans crafted a narrative of their revolution as a glorious conflict between virtuously inspired republican Americans and wrongheaded, though civilized and refined, British professionals. British and Hessian officers were no longer portrayed as barbarians beyond the pale of civilization, but instead as the innocent tools of a corrupt

British ministry. In this re-imagination, the war was limited, restrained, and moderate; its violence was safely enacted under the watchful eye of gentlemanly officers on both sides who shared a common code of honor. Working out of a London studio, the painter John Trumbull, the son of Connecticut's wartime governor Jonathan Trumbull and himself a former prisoner of the British, crafted a series of dynamic historical paintings that portrayed the nobility and humanity of American forces and the civility and refinement of the enemy. Illustrating the Hessian surrender at Trenton in 1776, Trumbull placed a mounted Washington center stage, empathetically reaching out to comfort the mortally wounded Hessian Colonel Johann Rall, who is gently supported by one of the American general's aides. Compassion, not anger or vindictiveness, characterizes the countenance of every American soldier present. Trumbull, in his autobiography, claimed that he "composed the picture, for the express purpose of giving a lesson to all living and future soldiers in the service of their country, to show mercy and kindness to a fallen enemy, — their enemy no longer when wounded and in their power." The viewer cannot escape Trumbull's message: revolutionary Americans had treated their genteel, though misguided, captives with humanity.⁴

Trumbull's humanitarian vision of the war comes through even more forcefully in his most violent depiction of the conflict: "The Death of General Warren at the Battle of Bunker's Hill." At the battle's climax, the painter shows a wounded Joseph Warren threatened by a British grenadier's bayonet. Rather than allowing the American officer to be impaled, in Trumbull's *oeuvre*, British Major John Small restrains his soldier, grasping his weapon before it can harm the dying man. Despite little evidence that Small had done

⁴ *Autobiography, Reminiscences and Letters of John Trumbull, From 1756 to 1841* (New York: Wiley and Putnam, 1841), 420. See also, Irma B. Jaffe, *John Trumbull: Patriot-Artist of the American Revolution* (New York: New York Graphic Society, 1975).

anything in Warren's favor, Trumbull wanted to honor the British officer, who he described in his catalog as a man "equally distinguished by acts of humanity and kindness to his enemies, as by bravery and fidelity to the cause he served." Trumbull knew well that a depiction of Warren's actual death, his face shattered by a British ball and his body riddled with bayonet wounds, would have done little to reconcile American viewers to their erstwhile foes. For Trumbull, and many of his contemporaries in the upper echelons of early republican society, British officers were not barbarians capable of butchering the virtuous Warren; they were gentlemen of humanity and sensibility who curtailed the violent instincts of the common soldiery. None of Trumbull's works contain the least inkling of the violent war of vengeance that gripped the continent after 1776.⁵

⁵ Trumbull quoted in Elisa Tamarkin, *Anglophilia: Deference, Devotion, and Antebellum America* (Chicago: University of Chicago Press, 2008), 134; Sam Forman, *Dr. Joseph Warren: The Boston Tea Party, Bunker Hill, and the Birth of American Liberty* (Gretna, LA: Pelican Publishing Company, 2012), 303-04.



(Fig. 6)
The Death of General Warren at the Battle of Bunker's Hill, by Jonathan Trumbull
Museum of Fine Arts, Boston

In a similar vein, the early historian of the revolution, David Ramsay, who too had been a British prisoner, portrayed the war as a gentlemanly contest and lavished encomiums on formerly odious enemies. He praised General John Burgoyne for the restrained conduct of his army on its march toward Albany in 1777. Ramsay went to great pains to describe Burgoyne's determination to "repress [the] barbarity" of his Native American allies. While the revolutionary press had felt no compunction at demonizing Burgoyne after the death of Jane McCrea, Ramsay excused the general of any "premeditated barbarity." "The cruelties of the Indians," not any failure on Burgoyne's part, were the cause of her unfortunate death. So impressed by Burgoyne's conduct, Ramsay was "at a loss whether to admire most, the magnanimity of the victorious

[Horatio Gates], or the fortitude of the vanquished general." Although he did not deny the war's violence—he had experienced too much of it for that—the historian all but absolved the revolution's European opponents of blame for its escalation.⁶

For Ramsay, "the calamities of the American war" could be directly traced to the conflict's democratizing effect on American society. In order to raise recruits for their forces, he argued, American propagandists had painted the British as barbarians who instigated their loyalist and native allies to ever-greater acts of atrocity. The propaganda had succeeded. Tales of terrorism "impressed on the minds of the inhabitants a general conviction, that a vigorous determined opposition was the only alternative for the preservation of their property, their children and their wives." Thus radicalized and acting "under the specious veil of patriotism," the "common people" vented their anger on their loyalist neighbors and British prisoners. Narrating a cycle of retaliation common to civil wars, "which produce the greatest quantity of human woes," Ramsay described how local revolutionary committees punished loyalist prisoners for treason against a country they never claimed. Once released, embittered loyalists "carried with them a keen remembrance of the vengeance of committees, and when opportunity presented, were tempted to retaliate." In this manner, "one instance of severity begat another, and they continued to encrease [*sic*] in a proportion that doubled the evils of common war." By relying on ordinary Americans to fight the war, thus allowing the conflict to devolve into civil strife, revolutionary leaders had failed, suggested Ramsay, in their responsibility to restrain the violent tendencies of their social inferiors. He despaired: "Humanity would shudder at a particular recital of the calamities which the whigs

⁶ David Ramsay, *The History of the American Revolution* (Trenton, NJ: James J. Wilson, 1811), 2 vols., 2:43, 54, 76.

inflicted on the tories, and the tories on the whigs." From Ramsay's perspective, the mistreatment of prisoners during the revolution's civil war was a lamentable consequence of independence, but it did not mar the glorious cause. Portraying the revolutionary conflict largely as a conventional and restrained war between the Continental army and its British opponents, Ramsay banished the stories of civil war and prisoner abuse to the obscurity of an appendix at the end of his second volume. There the tales of abuse and retaliation would be comfortably forgotten until the next generation of Americans faced the prospect of war with their old enemy the British.⁷

In the first decade of the nineteenth century, with Europe engulfed in war, some Americans sought to revive the memory of the revolution's prisoners for partisan purposes. In the imaginations of those Americans who sought closer ties to revolutionary and imperial France, usually identifying themselves as Democratic-Republicans, the British were once again savages and barbarians. In 1807, the *National Aegis*, a staunchly Republican paper, reminded its readers that the British government had "murdered our fellow citizens at Lexington...[,] carried on a seven years war to reduce this country to unconditional submission...[and] added to the necessary calamities of honorable warfare, the horrors and barbarity of the tomahawk and scalping knife." Most importantly, the author wanted every Republican to recall that it was the British that had "incarcerated upwards of twenty thousand of our seamen and soldiers, in the prisons and prison ships at New-York." The Republican *New-Hampshire Gazette* was even more explicit in its denunciation of Britain's treatment of captured Americans. The British, according to the gazette, were responsible for "the poisoning of thousands of *farmers* in the Jersey prison ships [*sic*] at New York." For the *Public Advertiser*, "the unhappy victims of British

⁷ Ramsay, *The History*, 55, 365, 364, 365, 376.

barbarity" deserved to be remembered. Although their deaths had been slow, "those who perished in thousands on board [the] Jersey prison ships" had been "murdered" by the British nonetheless. Nowhere in these denunciations of British mistreatment of American prisoners can be found mention of the thousands of British, German, and loyalist prisoners who expired on American prison ships or in American jails and camps. The popular American cry for retaliation, and Congress's acquiescence to it, were scrubbed from the history of the revolution in the nineteenth century, coloring even to this day our popular and scholarly conceptions of the conflict.⁸

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Both Trumbull's image of courtly combat and the Republicans' picture of deliberate British brutality obscure the real war that secured American independence. When colonial Americans took up arms to defend their English liberties, they did not envision nor desire a revolutionary war. In their vision of "civilized" warfare, violence was restricted to the field of battle and captive enemy soldiers could expect generous treatment according to their rank and social station. It was not long, however, before the revolutionaries realized that the realities of their war for independence looked nothing like their idealized rendition. Atrocity rhetoric compounded real accounts of British mistreatment of American captives in the public sphere, radicalizing an enraged populace to wage an ever more violent war for retribution. Seen as rebels and traitors by their former friends and neighbors after independence, loyalists received the brunt of revolutionary fury. But the quest for revenge did not end with the subjugation of the

⁸ *National Aegis*, April 8th, 1807; *New-Hampshire Gazette*, March 31st, 1807; *Public Advertiser*, May 6th, 1807. See also, Burrows, *Forgotten Patriots*, 212-16.

loyalists. For years, Congress detained large numbers of British and German prisoners for the purpose of retaliation, despite being politically constrained from raising the necessary funds to provide for their needs. The results were predictably gruesome. Although the total number of enemy prisoners who perished in American custody eludes us, the prisoners' suffering did not escape the notice of the founding generation. Winning independence had been messy, violent, and horrifying. The *real* war of the American Revolution was incompatible with the lofty ideals that had inspired Britain's American colonists to pledge their lives, fortunes, and sacred honor to defend. It had to be forgotten.

While the founding elite was content to shroud the war in a haze of patriotic lore, enemy prisoners, and the ordinary Americans who captured, guarded, tortured, and at times killed them, could not so easily forget the war's violence. Men like William Gibson, a North Carolina militiaman, were not ashamed of the role they had played in the war. Radicalized not by lofty republican rhetoric but by British brutality, and perhaps more importantly, heavily embroidered atrocity stories, Gibson and his fellow soldiers had wreaked havoc on their British and loyalist opponents in the name of retribution. In his 1832 pension application, Gibson admonished his readers not to judge him "cruel" for the torture of loyalist prisoners. Had they seen "the unrelenting cruelties of the Tories," they too would have felt "no little satisfaction" at having achieved vengeance. Gibson's revolution did not look like a Trumbull painting, but his was the revolution that enemy prisoners remembered. Loyalist pension applications read like a laundry list of persecution, imprisonment, sorrow, and suffering. Similarly, deprivation, hunger, exposure, and cruelty filled every extant memoir of British and German prisoners of war.

These men had survived the radicalization of the Revolutionary War, and they could not forget its horrors. Reflecting on the plight of the war's prisoners, British Private John Shaw could not have summarized his fellow prisoners' experience better: "The treatment of prisoners in general during the American war was harsh, severe, and in many instances, inhuman."⁹

⁹ Pension Application of William Gipson. S17437. Transcribed by Will Graves, <http://revwarapps.org/s17437.pdf>; Teagarden and Crabtree, eds., *John Robert Shaw*, 47.

Bibliography

List of Abbreviations:

APS: American Philosophical Society

CHS: Connecticut Historical Society

CSL: Connecticut State Library

CSRNC: The Colonial and State Records of North Carolina

CVSP: Calendar of Virginia State Papers

DLAR: David Library of the American Revolution

JCC: Journals of the Continental Congress

JPC: Journal of the New York Provincial Congress

LDC: Letters of Delegates of the Continental Congress

LMCC: Letters of Members of the Continental Congress

LOC: Library of Congress

LSC: Library of the Society of the Cincinnati

NDAR: Naval Documents of the American Revolution

NYPL: New York Public Library

PCC: Papers of the Continental Congress

PGW: Papers of George Washington

PHL: Papers of Henry Laurens

PRCC: Public Records of the Colony of Connecticut

PRM: Papers of Robert Morris

PTJ: Papers of Thomas Jefferson

VHS: Virginia Historical Society

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Samuel Miles Papers

Boston Public Library, Boston, MA
American Revolutionary War Manuscripts Collection

Clements Library, Ann Arbor, MI
Sir Henry Clinton Papers
Schoff Revolutionary War Collection
Sir Eyre Coote Papers

Connecticut Historical Society, Hartford, CT
American Revolution Collection
The Journal of Christopher French
Henry A. Sykes Collection

Connecticut State Library, Hartford, CT
Connecticut Archives, Colonial War Records
The Trumbull Papers

David Library of the American Revolution, Washington's Crossing, PA
Auckland Papers
Carleton Papers
Ebenezer Wild Diaries
Pennsylvania State Government Papers
The Sol Feinstone Collection

Historical Society of Pennsylvania, Philadelphia, PA
Bradford Family Collection
Charles Swift Riché Hildeburn Collection
Elias Boudinot Papers
Gratz Collection
Jasper Yeates Papers
Lancaster County Manuscripts
McAllister Collection

Library of Congress, Washington, DC
Elias Boudinot Papers
Peter Force Papers

Library of the Society of the Cincinnati, Washington, DC
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Orderly Book of the 1st Pennsylvania Battalion of Foot

William Smallwood Papers
Miscellaneous Manuscripts

Library of Virginia, Richmond, VA
James Wood Papers
Virginia Board of War Letter-book

Maryland Historical Society, Baltimore, MD
Mordecai Gist Papers
Moses Rawlings Papers

Maryland State Archives, Annapolis, MD
Maryland State Papers

Massachusetts State Archives, Boston, MA
The Felt Collection

Massachusetts Historical Society, Boston, MA
James Murray Robins Papers
Henry Knox Papers
William Heath Papers

National Archives of Scotland, Edinburgh, UK
Papers of the Campbell Family of Barcaldine

National Archives of the United Kingdom, Kew, UK
Colonial Office Records
Audit Office Records
War Office Records

National Archives of the United States, Washington, DC
Papers of the Continental Congress
Revolutionary War Pension Applications

New York Public Library, New York, NY
Bancroft Collection
Schuyler Papers

Mudd Manuscript Library, Princeton, NJ
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Morning Chronicle and London Advertiser (London)
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New-Jersey Gazette (Burlington and Trenton)
New-Hampshire Gazette (Portsmouth)
New-York Gazette (New York)
New-York Journal (New York)
New-York Mirror (New York)
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Curriculum Vitae

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ACADEMIC POSITIONS

Hench Post-Dissertation Fellow. The American Antiquarian Society, 2014-2015

Inaugural Amanda and Greg Gregory Family Fellow. The Fred W. Smith National Library for the Study of George Washington, 2013-2014

EDUCATION

The Johns Hopkins University

ABD Doctoral Candidate, Department of History, Fall 2009
M.A. Department of History, Spring 2009

Advisor: Philip D. Morgan

Major Field: Atlantic History, 1500-1800

Minor Fields:

Early Modern Britain (John Marshall)

Early Modern and Revolutionary France (David A. Bell)

Antebellum and Civil War America (Michael P. Johnson)

Language Exam: French. September, 2007. Passed

Comprehensive Exams: April, 2009. Passed with Distinction in all fields

Dissertation in Progress:

“Deprived of Their Liberty: Enemy Prisoners and the Culture of War in Revolutionary America.”

Duke University

B.A. Department of History, Highest Honors, Spring 2006

Graduated Magna Cum Laude

Major: History.

Thesis: “King George and Broadwords: The Highland Scots of North Carolina in the era of the American Revolution.”

Advisor: Alex Roland

PUBLICATIONS

“Displaying the Ensigns of Harmony: The French Army in Newport, Rhode Island, 1780-1781” *The New England Quarterly*, Vol. LXXXV. No. 3 (September, 2012).

WORKS IN PROGRESS

“‘The rage of tory-hunting:’ Loyalist Prisoners, Civil War, and the Violent Backdrop to American Independence,” (under review).

“‘The greatest Conquest Ever known:’ The Convention Army in Massachusetts,” *The Massachusetts Historical Review*, (invited submission).

AWARDS AND FELLOWSHIPS

2013-2014

U.S. Army Center of Military History Dissertation Year Fellowship

Andersonville National Historic Site Prisoner of War Research Grant

Alexander Butler Writing Fellowship, The Johns Hopkins University

Summer Research Grant, The Johns Hopkins University

2012-2013

Harry Frank Guggenheim Foundation Dissertation Fellowship

Johns Hopkins University Butler Freshman Seminar Fellowship

Duke University Visiting Scholar

2011-2012

Society of the Cincinnati Fellowship, Massachusetts Historical Society

Andrew W. Mellon Foundation Fellowship, Historical Society of Pennsylvania

Jacob M. Price Visiting Research Fellowship, Clements Library University of Michigan
Mellon Research Fellowship, Virginia Historical Society

2010-2011

Residential Research Fellowship, David Library of the American Revolution
Scholars' Grant, The Society of the Cincinnati Library

2005-2010

George and Sylvia Kagan Graduate Fellowship, Johns Hopkins University, 2007-2010
Comprehensive Exams, Passed with the highest honor of Distinction in all Fields, 2009
Frederick Jackson Turner Fellowship, Johns Hopkins University, 2009 (Declined)
William T. Laprade Prize for Best Undergraduate Thesis, Duke University, 2006
Phi Alpha Theta, 2006
Duke University Dean's Summer Research Fellowship, 2005

PRESENTATIONS AND CONFERENCES

Panelist, "War and Displacement," 'So Sudden an Alteration': The Causes, Course, and Consequences of the American Revolution Conference, Massachusetts Historical Society, April 9-11, 2015, Boston, MA.

Invited Speaker, American Revolution Round Table of Northern Delaware, "George Washington and the Problem of Prisoners of War," April 12, 2014, Wilmington, DE.

Chair, "War Debts: Obligation and Alliance in Early Modern Military Culture," Mid-Atlantic Conference on British Studies Annual Meeting, April 5-6, 2014, City University of New York, Lehman College.

Panelist, "Revolution, Finance, and Republicanism in the Eighteenth-Century Anglo-American World," Consortium on the Revolutionary Era Annual Conference, February 20-22, 2014, Oxford, MS.

Organizer and Panelist, "Prisoners of War in the Atlantic World," 19th Annual Institute Conference (Omohundro Institute of Early America Society & Culture), June 12-14, 2013, Baltimore, MD.

Panelist, "The Convention of Saratoga: The Politics of Prisoner Administration and Revolutionary American Military Culture," Society for Military History Annual Conference, May 10-13, 2012, Arlington, VA.

Invited Speaker, "Prisoners of War and the Making of Revolutionary American Military Culture," Brown bag presentation at the Massachusetts Historical Society, April 18, 2012, Boston, MA.

Invited Speaker, "Captives of Liberty: The American Administration of Enemy Prisoners, 1775-1783," Program in Early American Economy and Society and Library Company of Philadelphia Fellows Colloquium. August 16, 2011.

Invited Speaker, "The Convention Army in Virginia and Revolutionary American Military Culture," Research Seminar. The Virginia Historical Society. June 15, 2011, Richmond, VA.

Invited Speaker, "Displaying the Ensigns of Harmony: The French Army, Anti-Catholicism, and Civil-Military Relations in Newport, Rhode Island, 1780-1781." New Research in the History of Warfare Conference, University of Cambridge, August 7-8, 2010 (Declined).

LANGUAGES

French (Proficient)

TEACHING EXPERIENCE

Instructor, "Riots, Revolts, and Revolutions: Violence in Early American History," Fall, 2012

This course examines the history of early America from the first English colonization to the ratification of the Constitution by analyzing the role of violence in shaping this society.

Instructor, "War in American Culture: From Colonization to the War on Terror" Summer, 2012

This course explores the history of the United States, from revolution and nation-building to the present, by looking at American values and assumptions about war and warfare. We will examine domestic conflicts and foreign invasions, rebellions and civil wars, imperial and world wars, and finally terrorism and counterinsurgency in order to assess the role of war in shaping American society and culture.

Instructor, “War & Society in the New Word”

Intersession, 2012

This course examines the principal wars fought in North America from the onset of European colonization to the War for American Independence. It explores not only traditional questions such as what caused the war, how was it fought, and what were the results, but also how the war affected society at large, what was the experience of warfare for both combatants and noncombatants, and what were its costs and how were they measured?

Teaching Assistant, “Occidental Civilization: Medieval Europe”

Gabrielle Spiegel, Fall 2009

Department of History, JHU

Teaching Assistant, “Revolutionary America”

Philip D. Morgan, Spring 2009

Department of History, JHU

Guest Lecturer, “The War for Independence” for Philip D. Morgan’s “Revolutionary America” Spring 2009.

Department of History, JHU

Teaching Assistant, “Occidental Civilization: Europe and the Wider World, 1492-1776,”

John Marshall, Fall 2008

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PROFESSIONAL AFFILIATIONS

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